

OFFICIAL CODE OF GEORGIA ANNOTATED

2015 Supplement

Including Acts of the
2015 Session of the General Assembly

Prepared by

The Code Revision Commission
The Office of Legislative Counsel
and

The Editorial Staff of LexisNexis®



Published Under Authority of the State of Georgia


Volume 17 2012 Edition

Title 20. Education

Including Notes to the Georgia Reports and the
Georgia Appeals Reports

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THIS SUPPLEMENT CONTAINS

Statutes:

All laws specifically codified by the General Assembly of the State of Georgia through the 2015 Regular Session of the General Assembly.

Annotations of Judicial Decisions:

Case annotations reflecting decisions posted to LexisNexis® through April 3, 2015. These annotations will appear in the following traditional reporter sources: Georgia Reports; Georgia Appeals Reports; Southeastern Reporter; Supreme Court Reporter; Federal Reporter; Federal Supplement; Federal Rules Decisions; Lawyers' Edition; United States Reports; and Bankruptcy Reporter.

Annotations of Attorney General Opinions:

Constructions of the Official Code of Georgia Annotated, prior Codes of Georgia, Georgia Laws, the Constitution of Georgia, and the Constitution of the United States by the Attorney General of the State of Georgia posted to LexisNexis® through April 3, 2015.

Other Annotations:

References to:

Emory Bankruptcy Developments Journal.
Emory International Law Review.
Emory Law Journal.
Georgia Journal of International and Comparative Law.
Georgia Law Review.
Georgia State University Law Review.
John Marshall Law Review.
Mercer Law Review.
Georgia State Bar Journal.
Georgia Journal of Intellectual Property Law.
American Jurisprudence, Second Edition.
American Jurisprudence, Pleading and Practice.
American Jurisprudence, Proof of Facts.
American Jurisprudence, Trials.
Corpus Juris Secundum.
Uniform Laws Annotated.
American Law Reports, First through Sixth Series.
American Law Reports, Federal.

Tables:

In Volume 41, a Table Eleven-A comparing provisions of the 1976 Constitution of Georgia to the 1983 Constitution of Georgia and a Table Eleven-B comparing provisions of the 1983 Constitution of Georgia to the 1976 Constitution of Georgia.

An updated version of Table Fifteen which reflects legislation through the 2015 Regular Session of the General Assembly.

Indices:

A cumulative replacement index to laws codified in the 2015 supplement pamphlets and in the bound volumes of the Code.

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TITLE 20
EDUCATION

Chap.

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- 2. Elementary and Secondary Education, 20-2-1 through 20-2-2180.
- 2A. Student Scholarship Organizations, 20-2A-1 through 20-2A-7.
- 3. Postsecondary Education, 20-3-1 through 20-3-660.
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- 14. Education Accountability, 20-14-1 through 20-14-113.
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Law reviews. — For article, “Education: Education’s Elusive Future, Storied Past, and the Fundamental Inequities Between,” see 46 Ga. L. Rev. 557 (2012). For article, “Education: Elementary and Secondary Education,” see 29 Ga. St. U.L. Rev. 1 (2012).

CHAPTER 1A

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Article 3

Child Care Council

ARTICLE 1

GENERAL PROVISIONS

20-1A-1. Creation.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, effective January 1, 2016, reenacted this Code section without

change. Refer to bound volume for text of this Code section.

20-1A-2. (For effective date, see note.) Definitions.

As used in this chapter, the term:

(1) “Board” means the Board of Early Care and Learning.

(2) “Change of ownership applicant” means any licensed or commissioned early care and education program applying for a new license or commission to operate an early care and education program.

(3) “Child care learning center” means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, seven or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.

(4) “Commissioner” means the commissioner of early care and learning.

(5) “Department” means the Department of Early Care and Learning.

(6) “Early care and education programs” include all family day-care homes, support centers, family child care learning homes, and care learning centers, regardless of whether such homes or centers offer education.

(7) “Early childhood” means the period of childhood from birth to age six.

(8) “Family child care learning home” means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six children under 13 years of age at one time.

(9) “License” means the document issued by the department authorizing the operation of a family child care learning home or child care learning center.

(10) “Permit” means the temporary document issued by the department authorizing a family child care learning home or child care learning center to operate without a license for a limited term to be determined by the department.

(11) “Registration” means the document issued by the department to any business entity operating as a support center.

(12) “Support center” means any business entity registered with the department that makes available potential employees for family child care learning homes or child care learning centers and that receives no children for care. Such term shall include but not be limited to a temporary staffing agency, a university, or an independent contractor. (Code 1981, § 20-1A-2, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2004, p. 645, § 1; Ga. L. 2008, p. 798, § 1/HB 1169; Ga. L. 2013, p. 135, § 1/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, substituted the present provisions of paragraph (2) for the former provisions, which read: “‘Child care learning center’ means a day-care center that participates in Georgia’s Pre-K Program.”; substituted “early care and learning” for “the Department of Early Care and Learning” in paragraph (3); deleted former paragraph (4), which read: “‘Day-care center’ means any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, 19 or more children under 18 years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of Code Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only.”; redesignated former paragraphs (5) through (9) as present paragraphs (4) through (8), respectively; in paragraph (5), deleted “day-care centers,”

following “day-care homes,” and added “, regardless of whether such homes or centers offer education” at the end; and, in paragraph (7), substituted “13 years” for “18 years” near the middle and added the proviso at the end.

The 2015 amendment, effective January 1, 2016, added paragraph (2); redesignated former paragraphs (2) through (6) as present paragraphs (3) through (7), respectively; substituted “seven” for “19” in paragraph (3); substituted “support centers, family child care learning” for “group day-care” in the middle of paragraph (6); deleted former paragraph (7), which read: “‘Family day-care home’ means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six children under 13 years of age at one time.”; substituted the present provisions of paragraph (8) for the former provisions, which read: “‘Group day-care home’ means any place operated by any person or group wherein are received for pay not less than seven nor more than 18 children under 18 years of age for care and super-

vision for less than 24 hours per day.”; and added paragraphs (9) through (12).

20-1A-3. (For effective date, see note.) Commissioner; board; duties and powers; salary; personnel; rules and regulations.

(a) There is created a Board of Early Care and Learning and a commissioner of early care and learning.

(b) The board shall consist of one member from each congressional district appointed by the Governor. In as far as it is practical, the members of the board shall be representative of all areas and functions encompassed within the early childhood care and education community. In appointing members to their initial terms, the Governor shall designate five members for two-year terms, four members for three-year terms, and four members for five-year terms. Subsequent appointments shall be for five-year terms. Members shall serve until their successors are appointed. In the event of a vacancy on the board for any reason other than expiration of a term, the Governor shall appoint a person from the same congressional district to fill the vacancy for the unexpired term.

(c) The board shall elect from its members a chairperson and such other officers as the board considers necessary. The board shall adopt bylaws for the conduct of its activities. The members of the board shall receive per diem and expense reimbursement as shall be determined and approved by the Office of Planning and Budget in conformity with rates and allowances determined for members of other state boards.

(d) The board shall determine policies and promulgate rules and regulations for the operation of the department including:

(1) Functions formerly performed by the Office of School Readiness, including, but not limited to, Even Start;

(2) (For effective date, see note.) Functions transferred to the department from the Department of Human Resources (now known as the Department of Human Services) relating to day-care centers (now known as child care learning centers), group day-care homes (now known as child care learning centers), family day-care homes (now known as family child care learning homes), and other functions as agreed upon by the department and the Department of Human Resources (now known as the Department of Human Services) in accordance with Code Section 20-1A-8;

(3) Functions transferred to the department from the Georgia Child Care Council pursuant to Code Section 20-1A-63; and

(4) Functions relating to early childhood education programs transferred from the Department of Education by agreement in accordance with Code Section 20-1A-17.

(e) The board shall oversee the budget of the department and shall submit an annual request for funding to the Office of Planning and Budget in accordance with Code Section 45-12-78.

(f) The commissioner shall be the chief administrative and executive officer of the department. The commissioner shall be appointed by and serve at the pleasure of the Governor. The commissioner shall be in the unclassified service as defined by Code Section 45-20-2 and shall receive a salary to be determined by the Governor.

(g) The commissioner shall have the authority to employ all personnel of the department, subject to the provisions of this chapter, all applicable provisions of other laws governing public employment, and the policies, procedures, rules, and regulations of the board. (Code 1981, § 20-1A-3, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-9/HB 228; Ga. L. 2009, p. 745, § 1/SB 97; Ga. L. 2012, p. 446, § 2-21/HB 642; Ga. L. 2013, p. 135, § 2/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — Paragraph (d)(2), as set out above, becomes effective January 1, 2016. For version of paragraph (d)(2) in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, inserted “(now known as child care learning centers)” in paragraph (d)(2).

The 2015 amendment, effective January 1, 2016, in paragraph (d)(2), substituted “group day-care homes (now known as child care learning centers), family day-care homes (now known as family child care learning homes)” for “group day-care homes, family day-care homes”.

20-1A-4. (For effective date, see note.) Powers and duties.

The Department of Early Care and Learning shall have the following powers and duties:

(1) To administer such programs and services as may be necessary for the operation and management of voluntary pre-kindergarten, which shall be known as “Georgia’s Pre-K Program”;

(2) To administer such programs and services as may be necessary for the operation and management of preschool and child development programs, such as Even Start and child care regulation and food programs;

(3) To act as the agent of the federal government in conformity with this chapter and the administration of any federal funds granted to the state to aid in the furtherance of any functions of the department;

(4) To assist local units of administration in this state so as to assure the proliferation of services under this chapter;

(5) To regulate early care and education programs in accordance with this chapter;

(6) To perform the functions set out in Code Section 20-1A-64, relating to improvement of the quality, availability, and affordability of child care in this state;

(7) To serve as the Head Start state collaboration office;

(8) To establish and collect annual fees for licensure, registration, or commission of early care and education programs. Such fees so established shall be reasonable and shall be determined in such a manner that the total amount of fees established shall help defray the direct and indirect costs to the department in performing such function. The department shall remit all fees collected to the general fund of the state;

(9) (For effective date, see note.) To recommend in writing to the owner of any early care and education program licensed by the department that such program carry liability insurance coverage sufficient to protect its clients. Any such program which after receiving such recommendation is not covered by liability insurance shall post that fact in a conspicuous place in the program and shall notify the parent or guardian of each child under the care of the program in writing. Such notice shall be in at least 1/2 inch letters. Each such parent or guardian must acknowledge receipt of such notice in writing and a copy of such acknowledgment shall be maintained on file at the program at all times while the child attends the program and for 12 months after the child's last date of attendance. Failure to do so may subject the owner of the program to a civil fine of \$1,000.00 for each such infraction;

(10) To administer any programs assigned to it administratively by the Governor pursuant to his or her powers or any programs for which the Governor designates the department as the lead agency in the state for a federal program;

(11) To perform any other functions as agreed upon between the department and the Department of Human Resources (now known as the Department of Human Services), pursuant to Code Section 20-1A-8;

(12) (For effective date, see note.) To perform any other functions as agreed upon between the department and the Department of Education, in accordance with Code Section 20-1A-17;

(13) (For effective date, see note.) To exercise the powers reasonably necessary to accomplish the purposes of this chapter, including, but not limited to, contracting for services; and

(14) (For effective date, see note.) To solicit and accept donations, contributions, grants, bequests, gifts of money and property, facilities, or services, with or without consideration, from any person, firm, or corporation or from any state, county, municipal corporation, local government, or governing body, or from the federal government to enable it to carry out its functions and purpose. (Code 1981, § 20-1A-4, enacted by Ga. L. 1996, p. 167, § 2; Ga. L. 2002, p. 1083, § 1; Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-10/HB 228; Ga. L. 2010, p. 9, § 1-45/HB 1055; Ga. L. 2013, p. 135, § 3/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of paragraphs (9), (12) and (13) in effect until January 1, 2016, see the 2015 amendment note. Until January 1, 2016, there is no paragraph (14).
The 2013 amendment, effective July 1, 2013, added paragraphs (9) and (10) and redesignated former paragraphs (9)

through (11) as present paragraphs (11) through (13), respectively.
The 2015 amendment, effective January 1, 2016, substituted “education program” for “learning program” in the first sentence of paragraph (9); deleted “and” at the end of paragraph (12); substituted “; and” for the period at the end of paragraph (13); and added paragraph (14).

20-1A-5. Impact of transfer of operations on individuals.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-6. Department to, succeed to applicable rules and regulations.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-7. Pre-kindergarten name change required in publications, posters, banners, and signs.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-8. Transfer of functions, powers, personnel, equipment, and assets to department; funding.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-9. (For effective date, see note.) Authority to license and regulate child care learning centers and family child care learning homes transferred to department.

The department shall succeed to all rights and responsibilities relating to licensure and regulation of day-care centers (now known as child care learning centers), group day-care homes (now known as child care learning centers), and family day-care homes (now known as family child care learning homes), including such rules, regulations, policies, procedures, and pending and finalized administrative orders of the Department of Human Resources (now known as the Department of Human Services), the Georgia Child Care Council, and the Office of State Administrative Hearings, where applicable, which are in effect on September 30, 2004, and which relate to the functions transferred to the department pursuant to Code Section 20-1A-8. Such rights, responsibilities, licenses issued pursuant to previous law, procedures, and orders shall remain in effect until amended, repealed, superseded, or nullified by the commissioner. Such rules, regulations, and policies shall remain in effect until amended, repealed, superseded, or nullified by the board. (Code 1981, § 20-1A-9, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2009, p. 453, § 2-12/HB 228; Ga. L. 2013, p. 135, § 4/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, inserted “(now known as child care learning centers)” near the middle of the first sentence.

The 2015 amendment, effective January 1, 2016, substituted “group day-care homes (now known as child care learning centers), and family day-care homes (now known as family child care learning homes)” for “group day-care homes, and family day-care homes” near the beginning of the first sentence.

20-1A-10. (For effective date, see note.) Regulation of early care and education programs.

(a) The department is authorized and empowered to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated for such purposes, the regulation of early care and education programs by providing consultation and making recommendations concerning establishment and implementation of such programs and by licensing and inspecting periodically all such programs to ensure their adherence to this chapter and rules and regulations promulgated by the board. An early care and education program registered as a support center shall be subject only to paragraph (3) of subsection (m) of this Code section, paragraphs (1), (3), and (6) of subsection (b) and paragraphs (1), (4), and (5) of subsection (c) of Code Section 20-1A-12, Article 2 of this chapter, and the rules and regula-

tions promulgated by the board regarding criminal records checks; provided, however, that adverse action taken against the registration of a support center shall constitute a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(b) Child care learning centers operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may notify the department annually and be commissioned in lieu of being licensed upon request for commission. Commissioned child care learning centers shall operate in accordance with the same procedures, standards, rules, and regulations which are established by the board for the operation of licensed child care learning centers. Any child care learning center operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may elect to apply for a commission as provided for in subsection (c) of this Code section.

(c) All early care and education programs that care for children shall be licensed or commissioned annually, and all licenses and commissions issued by the department shall be subject to annual renewal by the department in accordance with procedures, standards, rules, and regulations to be established by the board.

(d) The department shall publish in print or electronically and make available to early care and education programs and interested persons a list of guidelines for quality child care.

(e) After an early care and education program has been licensed, commissioned, permitted, or registered by the department as provided in this chapter, the program shall not be required to have a permit to operate a food service establishment as required in Code Section 26-2-371, provided that rules and regulations for food service have been incorporated in the regulations for licensing, commissioning, registering, or permitting such programs.

(f) The department shall not be authorized to prescribe, question, or regulate the specific content of educational curriculum taught by an early care and education program, except to the extent that a program operates Georgia's Pre-K Program or any other voluntary educational program administered by the department.

(g) Persons who operate licensed, commissioned, or permitted early care and education programs shall be required to post in a conspicuous place next to telephones in the home or center the telephone numbers of the nearest or applicable providers of emergency medical, police, and fire services.

(h) Persons who operate licensed, commissioned, or permitted early care and education programs shall post signs prohibiting smoking to carry out the purposes of Chapter 12A of Title 31.

(i) Child care learning centers shall provide a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and dining facilities for each child present in the facility. Child care learning centers will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to six children prescribed in Code Section 20-1A-2, a family child care learning home operator may care for two additional children aged three years and older for two designated one-hour periods daily. Notwithstanding the provisions of this subsection, all other applicable rules and regulations shall apply.

(j) The department shall assist applicants, license holders, registrants, commission holders, and permit holders in meeting applicable rules and regulations of the department for early care and education programs.

(k)(1) Application for a license, commission, registration, or permit for an early care and education program shall be made to the department upon forms furnished by the department. Upon receipt of an application for a license, commission, registration, or permit and upon presentation by the applicant of evidence that the early care and education program meets the rules and regulations prescribed by the department, the department shall issue such early care and education program a license, registration, commission, or permit in accordance with procedures, standards, rules and regulations established by the board.

(2) The following annual fees shall apply to applications for any license or commission:

- (A) Capacity of one to 25 children\$ 50.00
- (B) Capacity of 26 to 50 children 100.00
- (C) Capacity of 51 to 100 children 150.00
- (D) Capacity of 101 to 200 children 200.00
- (E) Capacity of more than 200 children 250.00

(l)(1) If the department finds that an early care and education program that currently cares for children plans to undergo a change in ownership, the department may issue a permit to such program to facilitate such change of ownership without disruption of care. If such program complies with all licensing requirements prior to the expiration of the permit, the department may issue a license to such program in accordance with this Code section.

(2) If the department finds that any early care and education program applicant does not meet rules and regulations prescribed by

the department but is attempting to meet such rules and regulations, the department may, in its discretion, issue a temporary license, registration, or commission to such early care and education program, but such temporary license, registration, or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such program is making progress toward meeting prescribed rules and regulations of the department, the department may, in its discretion, reissue such temporary license, registration, or commission for one additional period not to exceed one year. As an alternative to a temporary license, registration, or commission, the department, in its discretion, may issue a restricted license, registration, or commission which states the restrictions on its face.

(m) The department shall refuse to issue a license, commission, registration, or permit upon a showing of:

(1) Noncompliance with the rules and regulations for family child care learning homes or child care learning centers which are designated in writing to the facilities as being related to children's health and safety;

(2) Flagrant and continued operation of an unlicensed, uncommissioned, or unpermitted facility in contravention of the law;

(3) Prior license, commission, registration, or permit denial or revocation within one year of application; or

(4) Failure to pay the required annual license or commission fee.

(n) All licensed, commissioned, or permitted early care and education programs shall prominently display the license, commission, or permit issued to such program by the department at some point near the entrance of the premises of such program that is open to view by the public.

(o) The department's action revoking or refusing to renew or issue a license, commission, registration, or permit required by this Code section shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the "Georgia Administrative Procedure Act," except that only 30 days' notice in writing from the commissioner's designee shall be required prior to such revocation or refusal to renew and except that hearings held relating to such action by the department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

(p) It shall be the duty of the department to inspect at regular intervals all licensed, commissioned, or permitted early care and

education programs within the state. The department shall have right of entrance, privilege of inspection, and right of access to all children under the care and control of the license, commission, or permit holder.

(q) If any abuses, derelictions, or deficiencies are made known to the department or its duly authorized agents during their inspection of any licensed, commissioned, or permitted early care and education program or if, at any time, such are reported to the department, the department shall immediately investigate such matters and take such action as conditions may require.

(r) If any abuses, derelictions, or deficiencies are found in the operation and management of any early care and education program, including failure to pay the required annual license or commission fee, they shall be brought immediately to the attention of the management of such program; and if correctable, but not corrected within a reasonable time, the department shall revoke the license, commission, registration, or permit of such program in the manner prescribed in this Code section.

(s) The department may require periodic reports from early care and education programs in such forms and at such times as the department may prescribe.

(t) Any person who shall operate an early care and education program without a license, commission, registration, or permit shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00 or by imprisonment not exceeding 12 months, or both, for each such offense. Each day of operation without a license, commission, registration, or permit shall constitute a separate offense.

(u) The department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of an early care and education program without a license, commission, registration, or permit or the continued operation of an early care and education program in willful violation of this chapter or of any regulation of the department or of any order of the department.

(v) Each family child care learning home and child care learning center shall be required to obtain a separate license, commission, or permit for each facility and shall have a separate director for each facility. (Code 1981, § 20-1A-10, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2010, p. 9, § 1-46/HB 1055; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2013, p. 135, § 5/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section as set out above, becomes effective January 1, 2016. Until January 1, 2016, this Code section reads as follows: “(a) The

department is authorized and empowered to establish, maintain, extend, and improve throughout the state, within the limits of funds appropriated for such purposes, the regulation of early care and education programs by providing consultation and making recommendations concerning establishment and implementation of such programs and by licensing and inspecting periodically all such programs to ensure their adherence to this chapter and rules and regulations promulgated by the board.

“(b) Child care learning centers operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may notify the department annually and be commissioned in lieu of being licensed upon request for commission. Commissioned child care learning centers shall operate in accordance with the same procedures, standards, rules, and regulations which are established by the board for the operation of licensed child care learning centers. Any child care learning center operated as part of a local church ministry or a nonprofit religious school or a nonprofit religious charitable organization may elect to apply for a commission as provided for in subsection (c) of this Code section.

“(c) All early care and education programs shall be licensed or commissioned annually by the department in accordance with procedures, standards, rules, and regulations to be established by the board; provided, however, that the department may require persons who operate family day-care homes to register with the department.

“(d) The department shall publish in print or electronically and make available to early care and education programs and interested persons a list of guidelines for quality child care.

“(e) After an early care and education program has been licensed, commissioned, or registered by the department as provided in this chapter, the program shall not be required to have a permit to operate a food service establishment as required in Code Section 26-2-371, provided that rules and regulations for food service have been incorporated in the reg-

ulations for licensing, commissioning, or registering such programs.

“(f) The department shall not be authorized to prescribe, question, or regulate the specific content of educational curriculum taught by an early care and education program, except to the extent that a program operates Georgia’s Pre-K Program or any other voluntary educational program administered by the department.

“(g) Persons who operate early care and education programs shall be required to post in a conspicuous place next to telephones in the home or center the telephone numbers of the nearest or applicable providers of emergency medical, police, and fire services.

“(h) Persons who operate early care and education programs shall post signs prohibiting smoking to carry out the purposes of Chapter 12A of Title 31.

“(i) Group day-care homes and child care learning centers shall provide a minimum of 35 square feet of usable space consisting of indoor play areas, rest areas, and dining facilities for each child present in the facility. Child care learning centers will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to 18 children prescribed in Code Section 20-1A-2, group day-care homes will be allowed to designate in writing to the department two one-hour periods daily during which 25 square feet of usable space per child for children aged three years and older may be provided. Notwithstanding the limitation to six children prescribed in Code Section 20-1A-2, a family day-care home operator may care for two additional children aged three years and older for two designated one-hour periods daily. Notwithstanding the provisions of this subsection, all other applicable rules and regulations shall apply.

“(j) The department shall assist applicants, licensees, registrants, or persons holding commissions in meeting rules and regulations of the department for early care and education programs.

“(k)(1) Application for a license, commission, or registration for an early care and

education program shall be made to the department upon forms furnished by the department. Upon receipt of an application for a license, registration, or commission and upon presentation by the applicant of evidence that the early care and education program meets the rules and regulations prescribed by the department, the department shall issue such early care and education program a license, registration, or commission for a one-year period.

“(2) On and after May 12, 2010, the following annual fees shall apply to applications for licensure, registration, or commission as a child care learning center, group day-care home, or family day-care home:

“(A) Capacity of fewer than 25 children	\$50.00
“(B) Capacity of 26 to 50 p0;0 children	100.00
“(C) Capacity of 51 to 100 children	150.00
“(D) Capacity of 101 to 200 children	200.00
“(E) Capacity of more than 200 children	250.00

“(l) If the department finds that any early care and education program applicant does not meet rules and regulations prescribed by the department but is attempting to meet such rules and regulations, the department may, in its discretion, issue a temporary license, registration, or commission to such early care and education program, but such temporary license, registration, or commission shall not be issued for more than a one-year period. Upon presentation of satisfactory evidence that such program is making progress toward meeting prescribed rules and regulations of the department, the department may, in its discretion, reissue such temporary license, registration, or commission for one additional period not to exceed one year. As an alternative to a temporary license, registration, or commission, the department, in its discretion, may issue a restricted license, registration, or commission which states the restrictions on its face.

“(m) The department shall refuse to issue a license, registration, or commission upon a showing of:

“(1) Noncompliance with the rules and

regulations for family day-care homes, group day-care homes, or child care learning centers which are designated in writing to the facilities as being related to children’s health and safety;

“(2) Flagrant and continued operation of an unlicensed, unregistered, or uncommissioned facility in contravention of the law;

“(3) Prior license, registration, or commission denial or revocation within one year of application; or

“(4) Failure to pay the annual fee for licensure, registration, or commission of early care and education programs.

“(n) All licensed, registered, or commissioned early care and education programs shall prominently display the license, registration, or commission issued to such program by the department at some point near the entrance of the premises of such program that is open to view by the public.

“(o) The department’s action revoking or refusing to renew or issue a license, registration, or commission required by this Code section shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” except that only 30 days’ notice in writing from the commissioner’s designee shall be required prior to license, registration, or commission revocation and except that hearings held relating to such action by the department may be closed to the public if the hearing officer determines that an open hearing would be detrimental to the physical or mental health of any child who will testify at that hearing.

“(p) It shall be the duty of the department to inspect at regular intervals all licensed, registered, or commissioned early care and education programs within the state. The department shall have right of entrance, privilege of inspection, and right of access to all children under the care and control of the licensee, registrant, or commissionee.

“(q) If any flagrant abuses, derelictions, or deficiencies are made known to the department or its duly authorized agents during their inspection of any early care and education program or if, at any time, such are reported to the department, the

department shall immediately investigate such matters and take such action as conditions may require.

“(r) If abuses, derelictions, or deficiencies are found in the operation and management of any early care and education program, including failure to pay the annual fee for licensure, registration, or commission, they shall be brought immediately to the attention of the management of such program; and if correctable, but not corrected within a reasonable time, the department shall revoke the license, registration, or commission of such program in the manner prescribed in this Code section.

“(s) The department may require periodic reports from early care and education programs in such forms and at such times as the department may prescribe.

“(t) Any person who shall operate an early care and education program without a license, registration, or commission issued by the department shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$50.00 nor more than \$200.00 for each such offense. Each day of operation without a license, registration, or commission shall constitute a separate offense.

“(u) The department may, without regard to the availability of other remedies, including administrative remedies, seek an injunction against the continued operation of an early care and education program without a license, registration, or commission or the continued operation of an early care and education program in

willful violation of this chapter or of any regulation of the department or of any order of the department.

“(v) The term “licensed child care learning center” shall include a commissioned child care learning center and any references in this Code to a licensed child care learning center, including criminal, administrative, and civil provisions applicable to licensed child care learning centers, shall include and apply to commissioned child care learning centers unless otherwise provided in this Code section.

The 2013 amendment, effective July 1, 2013, in subsection (b), substituted “Child” for “Day-care centers and child” at the beginning of the first sentence, deleted “day-care centers and” preceding “child” twice in the second sentence, and deleted “day-care center or” following “Any” in the third sentence; in subsection (i), deleted “, day-care centers,” following “day-care homes” in the first sentence, substituted “Child” for “Day-care centers and child” at the beginning of the second sentence; in paragraph (k)(2), deleted “day-care center,” following “commission as a”; in paragraph (m)(1), deleted “day-care centers,” preceding “family day-care”; and, in subsection (v), twice substituted “child care learning center” for “day-care center”, deleted “commissioned day-care center and” preceding “commissioned child” and substituted “child care learning centers” for “day-care centers” near the middle, and deleted “commissioned day-care centers and” following “apply to” near the end.

The 2015 amendment, effective January 1, 2016, rewrote this Code section.

20-1A-10.1. Determination of payments and eligibility.

A determination by the department regarding payments and eligibility pursuant to any federal program or grant shall be preceded by notice and opportunity for a hearing and shall constitute a contested case within the meaning of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.” (Code 1981, § 20-1A-10.1, enacted by Ga. L. 2013, p. 135, § 6/HB 354; Ga. L. 2015, p. 965, § 1/HB 401.)

Effective date. — This Code section became effective July 1, 2013.

Editor’s notes. — Ga. L. 2015, p. 965,

§ 1/HB 402, effective January 1, 2016, reenacted this Code section without change.

20-1A-11. (For effective date, see note.) Penalties; notice.

(a) Any person who violates the provisions of Code Section 20-1A-10 or who hinders, obstructs, or otherwise interferes with any representative of the department in the discharge of that person's official duties in making inspections or in investigating complaints as provided in such Code section shall be guilty of a misdemeanor.

(b)(1) Any person, license holder, commission holder, or permit holder who:

(A) Violates any licensing, commissioning, or permitting provision of this chapter or any rule, regulation, or order issued under this chapter or any term, condition, or limitation of any license, commission, or permit issued under this chapter thereby subjecting a child in care to injury or a life-threatening situation; or

(B) Commits any violation for which a license, commission, or permit may be revoked under rules or regulations issued pursuant to this chapter

may be subject to a civil penalty, to be imposed by the department, not to exceed \$500.00. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

(2) Whenever the department proposes to subject a person, license holder, commission holder, or permit holder to the imposition of a civil penalty under this subsection, it shall notify such person, license holder, commission holder, or permit holder in writing:

(A) Setting forth the date, facts, and nature of each act or omission with which the person, license holder, commission holder, or permit holder is charged;

(B) Specifically identifying the particular provision or provisions of the Code section, rule, regulation, order, or license, commission, or permit requirement involved in the violation; and

(C) Advising of each penalty which the department proposes to impose and its amount.

Such written notice shall be sent by registered or certified mail or statutory overnight delivery by the department to the last known address of such person, license holder, commission holder, or permit holder. The person, license holder, commission holder, or permit holder so notified shall be granted an opportunity to show in writing, within such reasonable period as the department shall by rule or regulation prescribe, why such penalty should not be imposed. The notice shall also advise such person, license holder, commission

holder, or permit holder that, upon failure to pay the civil penalty subsequently determined by the department, if any, the penalty may be collected by civil action. Any person, license holder, commission holder, or permit holder upon whom a civil penalty is imposed may appeal such action pursuant to Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

(3) A civil penalty finally determined under this Code section may be collected by civil action in the event that such penalty is not paid as required. On the request of the department, the Attorney General is authorized to institute a civil action to collect a penalty imposed pursuant to this subsection. The Attorney General shall have the exclusive power to compromise, mitigate, or remit such civil penalties as are referred to the Attorney General for collection.

(4) All moneys collected from civil penalties shall be paid to the state for deposit in the general fund. (Code 1981, § 20-1A-11, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the bound volume.

The 2015 amendment, effective January 1, 2016, deleted “as provided in such Code section” following “inspections” in the middle of subsection (a); in paragraph (b)(1), inserted “, license holder, commission holder, or permit holder” in the introductory language, in subparagraph (b)(1)(A), substituted “permitting” for “registration” and substituted “permit issued” for “registration certificate”, and, in

subparagraph (b)(1)(B), substituted “permit” for “registration certificate”; in paragraph (b)(2), twice inserted “, license holder, commission holder, or permit holder” in the introductory language, in subparagraph (b)(2)(A), inserted “, license holder, commission holder, or permit holder”, and, in subparagraph (b)(2)(B), inserted “or” near the middle and substituted “permit requirement” for “registration certificate”; and inserted “, license holder, commission holder, or permit holder” throughout the ending undesignated paragraph of subsection (b).

20-1A-12. (For effective date, see note.) Application; “license” defined; actions authorized by department in event of violations; investigations; governmental immunity.

(a) (For effective date, see note.) This Code section shall be applicable to any early care and education program which is subject to regulation by the department in accordance with this chapter. For purposes of this Code section, the term “license” shall be used to refer to any license, commission, or permit issued by the department pursuant to the provisions of this chapter and the term “licensing requirements” shall be used to refer to any conditions related to the issuance and retention of any license, commission, or permit pursuant to the provisions of this chapter.

(b) (For effective date, see note.) The department shall have the authority to take any of the actions enumerated in subsection (c) of this Code section upon a finding that the applicant or holder of a license or registration has:

(1) Knowingly made any false statement of material information in connection with the application for a license or registration, or in statements made or on documents submitted to the department as part of an inspection, survey, or investigation, or in the alteration or falsification of records maintained by the early care and education program;

(2) Failed or refused to provide the department with access to the premises subject to regulation or information pertinent to the initial or continued licensing of the program;

(3) Failed to comply with the licensing requirements or registration requirements of this state;

(4) Failed to pay the annual fee required by subsection (k) of Code Section 20-1A-10; or

(5) Failed to comply with any provisions of this chapter.

(c) (For effective date, see note.) When the department finds that any applicant or holder of a license or registration has violated any provision of subsection (b) of this Code section or laws, rules, regulations, or formal orders related to the initial or continued licensing of the program, the department, subject to notice and opportunity for hearing, may take any of the following actions:

(1) Refuse to grant a license or registration; provided, however, that the department may refuse to grant a license or registration without holding a hearing prior to taking such action. The early care and education program shall have the right to appeal the denial in accordance with subsection (o) of Code Section 20-1A-10; provided, however, that the program shall remain closed until the appeal decision is issued;

(2) Administer a public reprimand;

(3) Suspend any license or registration for a definite period or for an indefinite period in connection with any condition which may be attached to the restoration of said license or registration;

(4) Prohibit any applicant or holder of a license or registration from allowing a person who previously was involved in the management or control, as defined by rule, of any program which has had its license or registration revoked or denied within the past 12 months to be involved in the management or control of such program;

(5) Revoke any license or registration;

(6) Impose a fine, not to exceed a total of \$25,000.00, of up to \$500.00 per day for each violation of a law, rule, regulation, or formal order related to the initial or ongoing licensing requirement of any program;

(7) Impose a late fee of up to \$250.00 for failure of an early care and education program to pay the annual fee required by subsection (k) of Code Section 20-1A-10 within 30 days of the due date as established by the department; or

(8) Limit or restrict any license as the department deems necessary for the protection of the public or enforcement of any law, rule, regulation, or formal order related to the licensing requirements of any program, including, but not limited to, restricting some or all services of or admissions into a program for a time certain.

In taking any of the actions enumerated in this subsection, the department shall consider the seriousness of the violation, including the circumstances, extent, and gravity of the prohibited acts, and the hazard or potential hazard created to the health or safety of the public.

(d) (For effective date, see note.) The department shall deny a license or registration or otherwise restrict a license or registration for any applicant who has had a license or registration denied, revoked, or suspended within one year of the date of an application or who has transferred ownership or governing authority of a program subject to regulation by the department within one year of the date of a new application when such transfer was made in order to avert denial, revocation, or suspension of such license or registration.

(e) With regard to any contested case instituted by the department pursuant to this Code section or other provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action, the department may, in its discretion, dispose of the action so instituted by settlement. In such cases, all parties, successors, and assigns to any settlement agreement shall be bound by the terms specified in such agreement and violation of such agreement thereof by any applicant or holder of a license shall constitute grounds for any action enumerated in subsection (c) of this Code section.

(f) (For effective date, see note.) The department shall have the authority to make public or private investigations or examinations inside or outside of this state to determine whether the provisions of this Code section or any other law, rule, regulation, or formal order relating to any licensing requirement of a program has been violated. Such investigations may be initiated at any time, in the discretion of the department, and may continue during the pendency of any action

initiated by the department pursuant to subsection (c) of this Code section.

(g) (For effective date, see note.) For the purpose of conducting any investigation, inspection, or survey, the department shall have the authority to require the production of any books, records, papers, or other information related to any licensing requirement of any program.

(h) Pursuant to the investigation, inspection, and enforcement powers given to the department by this Code section and other applicable laws, the department may assess against a program reasonable and necessary expenses incurred by the department pursuant to any administrative or legal action required by the failure of the program to fully comply with the provisions of any law, rule, regulation, or formal order related to the initial or continued licensing. Assessments shall not include attorney's fees and expenses of litigation, shall not exceed other actual expenses, and shall only be assessed if such investigations, inspections, or enforcement actions result in adverse findings, as finally determined by the department, pursuant to administrative or legal action.

(i) For any action taken or any proceeding held under this Code section or under color of law, except for gross negligence or willful or wanton misconduct, the department, when acting in its official capacity, shall be immune from liability and suit to the same extent that any judge of any court of general jurisdiction in this state would be immune.

(j) In an administrative or legal proceeding under this Code section, a person or entity claiming an exemption or an exception granted by law, rule, regulation, or formal order has the burden of proving this exemption or exception.

(k) This Code section and all actions resulting from its provisions shall be administered in accordance with Chapter 13 of Title 50, the "Georgia Administrative Procedure Act."

(l) The provisions of this Code section shall be supplemental to and shall not operate to prohibit the department from acting pursuant to those provisions of law which may now or hereafter authorize remedial or disciplinary grounds and action for the department. In cases where those other provisions of law so authorize other disciplinary grounds and actions, but this Code section limits such grounds or actions, those other provisions shall apply.

(m) The board is authorized to promulgate rules and regulations to implement the provisions of this Code section. (Code 1981, § 20-1A-12, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2010, p. 9, § 1-46.1/HB 1055; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the bound volume.

The 2015 amendment, effective January 1, 2016, inserted “or registration” throughout this Code section; in subsection (a), substituted “commission, or permit issued by the department pursuant to the provisions of this chapter and the term ‘licensing requirements’ shall be used to refer to any conditions related to the issuance and retention of any license, commission, or permit pursuant to the provisions of this chapter” for “registration, or commission issued by the department pursuant to the provisions of this chapter”; in paragraph (b)(3), inserted “or registration requirements”; in paragraph (b)(4), substituted “required by subsection

(k) of Code Section 20-1A-10” for “for licensure, registration, or commission of early care and education programs”; in paragraph (b)(5), substituted “chapter” for “Code section”; added the last sentence to paragraph (c)(1); in paragraph (c)(7), substituted “required by subsection (k) of Code Section 20-1A-10” for “for licensure, registration, or commission”; inserted “or enforcement of any law, rule, regulation, or formal order related to the licensing requirements of any program” in paragraph (c)(8); in subsection (d), substituted “shall” for “may” near the beginning and substituted “such” for “a” near the end; in subsection (f), substituted “any licensing requirement” for “the licensing”; and, in subsection (g), substituted “any licensing requirement” for “the initial or continued licensing”.

20-1A-13. (For effective date, see note.) Emergency placement of monitors; emergency closure upon minor’s death; requirements and procedures.

(a) (For effective date, see note.) As used in this Code section, the term:

(1) “Emergency order” or “order” means a written directive by the commissioner or the commissioner’s designee placing a monitor in a program or providing notice of intended emergency closure of a program.

(2) “Monitor” means a person designated by the department to remain on site in a program as an agent of the department, observing conditions.

(3) “Preliminary hearing” means a hearing held by the Office of State Administrative Hearings as soon as possible after the order is entered at the request of a program which has been affected by an emergency order placing a monitor in the program or upon notice of intended emergency closure of a program in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

(4) “Program” means a child care learning center or a family child care learning home.

(b)(1) (For effective date, see note.) The commissioner or his or her designee may order the emergency placement of a monitor or monitors in a program upon a finding that rules and regulations of the department are being violated which threaten the health, safety, or

welfare of children in the care of the program and when one or more of the following conditions are present:

(A) The program is operating without a license, commission, or permit;

(B) The department has denied application for license, commission, or permit or has initiated action to revoke the existing license, commission, or permit of the program; or

(C) Children are suspected of being subjected to injury or life-threatening situations or the health or safety of a child or children is in danger.

(2) A monitor may be placed in a program for no more than ten consecutive calendar days, during which time the monitor shall observe conditions and regulatory compliance with any recommended remedial action of the department. Upon expiration of the ten-day period, should the conditions warrant, the initial ten-day period may be extended for an additional ten-day period. The monitor shall report to the department. The monitor shall not assume any administrative or child-caring responsibility within the program, nor shall the monitor be liable for any actions of the program. The salary and related costs and travel and subsistence allowance as defined by department policy of placing a monitor in a program shall be reimbursed to the department by the program, unless the order placing the monitor is determined to be invalid in a contested case or by final adjudication by a court of competent jurisdiction, in which event the cost shall be paid by the department.

(c)(1) (For effective date, see note.) The commissioner or his or her designee may issue an order providing notice of intended emergency closure of a program:

(A) Upon the death of a minor at such program, unless such death was medically anticipated or no serious rule violations related to the death by the program were determined by the department; or

(B) Where a child's safety or welfare is in imminent danger.

(2) If a preliminary hearing is not requested pursuant to subsection (f) of this Code section, the commissioner shall immediately close such program for a period of not more than 21 days. If a preliminary hearing is requested pursuant to subsection (f) of this Code section, the commissioner may place a monitor in the program until the Office of State Administrative Hearings issues a decision, which shall be considered the final decision of the agency, on the emergency closure. If the Office of State Administrative Hearings finds that the emergency closure is warranted, the commissioner shall immediately close

such program for a period of not more than 21 days. If the Office of State Administrative Hearings finds that the emergency closure is not warranted, the commissioner shall not order the emergency closure of the program, but may continue investigating the incident and may place a monitor in the program in accordance with this Code section.

(3) (For effective date, see note.) Upon a closure, the program shall be required to immediately notify the parent or guardian of each child enrolled in the program. Upon a closure, the commissioner or his or her designee shall immediately conduct a review into the circumstances of the minor's death or the circumstances where a child's safety or welfare is in imminent danger. If the commissioner determines that the program where such minor's death occurred or where imminent danger exists fails to meet the specifications and requirements of this chapter, the commissioner shall immediately revoke such program's license, commission, or permit. The program shall have the right to appeal the revocation in accordance with subsection (o) of Code Section 20-1A-10; provided, however, that the program shall remain closed until the appeal decision is issued. If the commissioner determines that the administration or conditions of the program were not the cause of the minor's death or that a child's safety and welfare is not in imminent danger or if the department has not issued a revocation notice within the initial closure period, the commissioner shall immediately reopen the program for its continued operation.

(d) An emergency order shall contain the following:

- (1) The scope of the order;
- (2) The reasons for the issuance of the order;
- (3) The effective date of the order if other than the date the order is issued;
- (4) The person to whom questions regarding the order are to be addressed; and
- (5) Notice of the right to a preliminary hearing.

(e) Unless otherwise provided in the order, an emergency order shall become effective upon its service. Service of an emergency order may be made upon the owner of the facility, the director of the facility, or any other agent, employee, or person in charge of the facility at the time of the service of the order.

(f) A request for a preliminary hearing shall be made in writing within 48 hours from the time of service, excepting weekends. The request shall be made to the representative of the department desig-

nated in the order and may be made in person, by facsimile, by e-mail, or by any other means designated in the order.

(g) Upon receipt of a request for a preliminary hearing, the department shall immediately forward the request to the Office of State Administrative Hearings, which shall set and give notice of the date, time, and location of the preliminary hearing. The preliminary hearing shall be held as soon as possible after a request therefor but in no event later than 48 hours after such request, provided that a program may request that such hearing be held earlier and that in no event shall a hearing be held on a weekend or holiday.

(h) If a hearing is requested, the preliminary hearing shall consist of a review of all oral and written evidence introduced at the hearing and any arguments made. A recording shall be made of the hearing.

(i) The Office of State Administrative Hearings shall, where practicable, issue an immediate oral order and shall, in all instances, issue a written order within two business days after the close of the hearing.

(j) Pending final appeal of the validity of any emergency order issued as provided in this Code section, such emergency order shall remain in full effect until vacated or rescinded by the commissioner or the commissioner's designee.

(k) The department is not precluded from other actions permitted by other laws or regulations during the time an emergency order is in force. (Code 1981, § 20-1A-13, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2011, p. 579, § 1/SB 185; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2015 amendment, effective January 1, 2016, substituted “a program” for “an early care and education program” throughout; added paragraph (a)(4); in

subsection (b), substituted “permit” for “registration” in subparagraph (b)(1)(A), and, in subparagraph (b)(1)(B), twice substituted “commission, or permit” for “registration, or commission”; and substituted “, commission, or permit” for “in accordance with subsection (o) of Code Section 20-1A-10” in paragraph (c)(3).

20-1A-14. Variances and waivers to regulatory requirements.

Editor's notes. — Ga. L. 2015, p. 965, § 1/HB 401, effective January 1, 2016, reenacted this Code section without

change. Refer to bound volume for text of this Code section.

20-1A-15. “Inspection warrant” defined; procedure for issuance; evidence generated inadmissible in criminal proceedings.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, effective January 1, 2016, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-16. Coordination of efforts between departments and agencies.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, effective January 1, 2016, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-17. Transfer of programs from Department of Education.

Editor’s notes. — Ga. L. 2015, p. 965, § 1/HB 401, effective January 1, 2016, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-18. (For effective date, see note.) Information on influenza vaccine.

(a) Each child care learning center and family child care learning home shall, by September 1 of each year, provide to the parent or guardian of each child enrolled therein educational information on the influenza vaccine. Such information shall include, but not be limited to:

(1) The causes and symptoms of influenza and the means by which it is spread;

(2) The risks associated with influenza;

(3) The availability, effectiveness, and known contraindications of the influenza vaccine; and

(4) Related recommendations issued by the federal Centers for Disease Control and Prevention, including the recommended ages at which children receive the influenza vaccine.

(b) Failure to comply with the provisions of this Code section shall not subject any such child care learning center or family child care learning home to any civil or criminal liability.

(c) Nothing in this Code section shall be construed to require any child care learning center or family child care learning home to provide or pay for immunizations against influenza. (Code 1981, § 20-1A-18, enacted by Ga. L. 2012, p. 734, § 1/HB 845; Ga. L. 2015, p. 965, § 1/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2015 amendment, effective January 1, 2016, substituted “child care learning center and family child care learning home shall, by September 1 of each year, provide to the parent or guardian of each child enrolled therein” for “early care and education program shall, by September 1 of each year, provide to the parent or

guardian of each child enrolled in the program” in subsection (a); substituted the present provisions of subsection (b) for the former provisions, which read: “The failure on the part of an early care and education program to comply with the provisions of this Code section shall not subject such program to any civil or criminal liability.; and in subsection (c), substituted “child care learning center or family child care learning home” for “early care and education program”.

ARTICLE 2

BACKGROUND CHECKS

20-1A-30. (For effective date, see note.) Definitions.

As used in this article, the term:

(1) “Conviction” means a finding or verdict of guilty or a plea of guilty regardless of whether an appeal of the conviction has been sought.

(2) “Crime” means:

(A) Any felony;

(B) A violation of Code Section 16-5-23 when the victim is a minor;

(C) A violation of Code Section 16-5-23.1 when the victim is a minor;

(D) A violation of Code Section 16-12-1;

(E) A violation of Chapter 6 of Title 16;

(F) A violation of Code Section 16-4-1; or

(G) Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

(3) “Criminal record” means:

(A) Conviction of a crime;

(B) Arrest, charge, and sentencing for a crime where:

(i) A plea of nolo contendere was entered to the charge;

(ii) First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this

division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

(iii) Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of Chapter 13 of Title 16, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

(C) Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to Chapter 3 of Title 17.

(4) "Director" means the on-site manager of a facility designated by the legal owner who is responsible for the supervision, operation, and maintenance of an early care and education program and meets the minimum qualifications as determined by the department.

(5) "Employee" means any person, other than a director, who is 17 years of age or older and is employed by an early care and education program to perform any duties which involve personal contact between that person and any child being cared for at the facility and also includes any adult person who resides at the facility or who, with or without compensation, performs duties for the early care and education program which involve personal contact between that person and any child being cared for by the early care and education program; however, a parent or legal guardian of a child in care shall not be considered an employee unless such parent or legal guardian is deemed an employee by the early care and education program or either resides at the early care and education program or is compensated in any fashion by the early care and education program except through appropriate state or federal funds.

(6) "Employment history" means a record of where a person has worked for the past ten years.

(7) "Facility" means an early care and education program's real property at which children are received for care.

(8) "Fingerprint" means an inked fingerprint card or an electronic image of a person's fingerprint.

(9) "Fingerprint records check determination" means a satisfactory or unsatisfactory determination by the department based upon fingerprint-based national criminal history record information.

(10) “GCIC” means the Georgia Crime Information Center established under Article 2 of Chapter 3 of Title 35.

(11) “GCIC information” means criminal history record information, as defined in Code Section 35-3-30.

(12) “Preliminary records check determination” means a satisfactory or unsatisfactory determination by the director based only upon a comparison of GCIC information obtained solely from a law enforcement agency within the state with other than fingerprint information regarding the person upon whom the records check is being performed for purposes of this article.

(13) “Provisional employee” means an individual other than a director whose duties involve personal contact between that person and any child being cared for at the facility and who is hired for a limited period of employment.

(14) “Records check application” means a document created by the department to be completed and submitted to the department by every actual and potential director and employee that indicates such director’s name, early care and education program name and type, and such other information as the department deems appropriate and which authorizes the department to receive and render a fingerprint records check determination pursuant to any criminal history record information pertaining to such individual from any local, state, or national criminal justice or law enforcement agency.

(15) “Satisfactory determination” means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have no criminal record.

(16) “Unsatisfactory determination” means a written declaration that a person for whom a preliminary or fingerprint records check determination was performed was found to have a criminal record. (Code 1981, § 20-1A-30, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 135, § 7/HB 354; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2013, p. 294, § 4-31/HB 242; Ga. L. 2014, p. 866, § 20/SB 340; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in paragraph (1), deleted “day-care center,” preceding “group day-care” and inserted “, commissioned,” near the end. The second 2013 amendment, effective July 1,

2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section. The third 2013 amendment, effective January 1, 2014, in paragraph (3), deleted “, relating to simple battery,” following “Code Section 16-5-23”, deleted “, relating to contributing to the delinquency of a minor” following “Code Section 16-12-1”, deleted “, relating to sexual offenses” following “Title 16”, and deleted

“, relating to criminal attempt” following “Code Section 16-4-1”. See the Code Commission note regarding the effect of these amendments. See editor’s note for applicability.

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, deleted “, relating to battery,” preceding “when the victim” in subparagraph (3)(C).

The 2015 amendment, effective January 1, 2016, deleted former paragraph (1) which read: “‘Center’ means a group day care home, family day care home, or child care learning center which is allowed to operate or is required to be licensed, commissioned, or registered under Article 1 of this chapter.”; redesignated former paragraphs (2) through (12) as present paragraphs (1) through (11), respectively; substituted “an early care and education program” for “the center” in paragraph (4); in paragraph (5), substituted “an early care and education program to perform” for “a center to perform at any of the center’s facilities”, twice substituted “early care and education program” for “center” and added “; however, a parent or legal guardian of a child in care shall not be considered an employee unless such parent or legal guardian is deemed an employee by the early care and education program or either resides at the early care and education program or is compensated in any fashion by the early care and education program except through appropriate state or federal funds” to the end; substituted “an early care and education program’s” for “a center’s” in paragraph

(7); deleted former paragraph (13), which read: “‘License’ means the document issued by the department to authorize the center to which it is issued to operate a facility.”; redesignated former paragraphs (14) through (18) as present paragraphs (12) through (16), respectively; and, in paragraph (14), deleted “, notarized,” following “completed” near the beginning and substituted “early care and education program name and” for “center”.

Code Commission notes. — Pursuant to Code Section 28-9-3, in 2013, the amendment to paragraph (3) of this Code section by Ga. L. 2013, p. 285/HB 350, § 2, was treated as impliedly repealed and superseded by Ga. L. 2013, p. 294/HB 242, § 4-31, due to irreconcilable conflict. See *County of Butts v. Strahan*, 151 Ga. 417 (1921); *Keener v. McDougall*, 232 Ga. 273 (1974), and Ga. L. 2013, p. 141, § 54(d)/HB 79.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

20-1A-31. (For effective date, see note.) Records check application for potential employees; fingerprint records checks.

(a) A support center may furnish to the department a records check application for each potential employee of any licensed, commissioned, or permitted early care and education program. Before a person affiliated with a support center may become an employee of any licensed, commissioned, or permitted early care and education program, such person shall obtain a satisfactory fingerprint records check determination. All potential employees, excluding students currently enrolled in an early education curriculum through an accredited school of higher education, may submit evidence, satisfactory to the depart-

ment, that such potential employee received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 12 months old, or that any employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. A student currently enrolled in an early education curriculum through an accredited school of higher education may submit evidence, satisfactory to the department, that such student received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 24 months old, or that such student whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The licensed, commissioned, or permitted early care and education program shall maintain documentation in the employee's personnel file, which is available to the department upon request, and which reflects that a satisfactory fingerprint records check determination was received before the employee is allowed to reside in an early care and education program or be present at an early care and education program while children are present for care. If the fingerprint records check determination for any potential employee reveals a criminal record of any kind, such potential employee shall not be allowed to reside in an early care and education program or be present at an early care and education program while children are present for care until such potential employee has either obtained a satisfactory fingerprint records check determination or has had the unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint records check determination is unsatisfactory, the licensed, commissioned, or permitted early care and education program shall, after receiving notification of such unsatisfactory determination, take such steps as are necessary so that such person no longer resides in the early care and education program and no longer is present at an early care and education program while children are present for care.

(b) Notwithstanding the limited period of portability, every person affiliated with a support center as a potential employee of a licensed or commissioned early care and education program shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that person's previous fingerprint records check shall not exceed five years.

(c) After the issuance of a registration, the department may require additional fingerprint records check determinations on any person affiliated with a support center during the course of a child abuse

investigation involving such person or when the department has reason to believe such person has a criminal record that renders such person ineligible to reside at an early care and education program or be present at an early care and education program while children are present for care. (Code 1981, § 20-1A-31, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2015 amendment, effective January 1, 2016, substituted the present provisions of this Code section for the former provisions, which read: “(a) Each center shall be required to obtain a separate license for each facility and shall have a separate director for each facility.

“(b) An applicant for a new license shall apply for a separate license for each new facility in this state owned or operated by that applicant and shall have a separate director for each such facility.”

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change.

20-1A-32. (For effective date, see note.) Program license or commission applicants; records check requirements; change of ownership.

(a) Accompanying any application for a new license or commission for an early care and education program, the applicant shall furnish to the department a records check application for the director and each employee. In lieu of such records check applications, the license applicant may submit evidence, satisfactory to the department, that such individual received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 12 months old, or that any director or employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. Either the department or the appropriate law enforcement agencies may charge reasonable and additional processing fees for performing fingerprint records checks as required by statute, regulation, or policy or by GCIC.

(b) Each change of ownership applicant shall furnish to the department a records check application for the director and each employee. In lieu of such records check applications, the change of ownership applicant may submit evidence that the director and each employee at that facility received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 60 months old, or that any director or employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determi-

nation or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. Failure to comply with this provision shall prevent the department from issuing a license or commission.

(c) Any change of ownership applicant that operates under a permit granted by the department shall verify and maintain evidence sufficient to the department that each employee and director who was employed under the former ownership and will continue to work during the permit period has a satisfactory records check determination. If the department determines a change of ownership applicant knows or should reasonably know that any such individual has a criminal record and allows the individual to reside at an early care and education program or be present at an early care and education program while children are present for care, the department shall revoke the permit to operate and deny the license or commission for that early care and education program. Notwithstanding the requirements of this subsection, all requirements for new and provisional employees hired after the issuance of a permit shall apply. (Code 1981, § 20-1A-32, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

The 2015 amendment, effective January 1, 2016, substituted the present provisions of this Code section for the former provisions, which read: “Effective January 1, 2014, accompanying any application for a new license for a facility, the applicant shall furnish to the department a records check application for the director and each employee. In lieu of such records check

applications, the license applicant may submit evidence, satisfactory to the department, that within the immediately preceding 12 months the director or employee received a satisfactory fingerprint records check determination, or that any director or employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. Either the department or the appropriate law enforcement agencies may charge reasonable and additional processing fees for performing fingerprint records checks as required by statute, regulation, or policy or by GCIC.”

20-1A-33. (For effective date, see note.) Notification to applicant on records check.

After being furnished the required records check application under Code Section 20-1A-32, the department shall notify the license, commission, or change of ownership applicant and the fingerprint records check applicant in writing whether the department’s determination as to a potential director or potential employee is satisfactory or unsatisfactory. If the fingerprint records check determination was satisfactory

as to the potential director and each potential employee of a license applicant's facility, that applicant may be issued a license or commission for that facility if the applicant otherwise qualifies for a license or commission under Article 1 of this chapter. If the fingerprint records check for a potential director or any potential employee revealed a criminal record, such potential director or potential employee shall not be allowed to reside at an early care and education program or be present in the early care and education program while any child is present for care until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license or commission of an early care and education program if the early care and education program fails to comply with the requirements of this Code section. (Code 1981, § 20-1A-33, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

The 2015 amendment, effective January 1, 2016, inserted "potential" throughout this Code section; inserted ", commis-

sion, or change of ownership" in the first sentence; inserted "or commission" in the second sentence; substituted "reside at an early care and education program or be present in the early care and education program while any child is present for care" for "work in the center while any child is present" in the third sentence; and substituted "or commission of an early care and education program if the early care and education program" for "of a center if the center" in the last sentence.

20-1A-34. (For effective date, see note.) Check of fingerprints on national level; satisfactory determination prior to employment; additional records checks.

(a) The department shall receive a records check application, as may be required by the department and allowed under federal law, for any individual that cares for children through a program that receives, either directly or indirectly, federal funds through the department for the care of children. Upon receipt of such records check application, the department shall comply with all rules of the GCIC and the Federal Bureau of Investigation for the request and receipt of national fingerprint based criminal history reports. Such individuals shall also submit all necessary applications, fees, and acceptable fingerprints to the GCIC. Within ten days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department in writing of any derogatory finding, including but not limited to any criminal record, of the state fingerprint records check or if there is no such finding. The GCIC shall also conduct a search of Federal Bureau of

Investigation records and fingerprints and notify the department in writing of the results of such search. Upon receipt of the bureau's report, the department shall make a national fingerprint records check determination. If the fingerprint records check determination is unsatisfactory for an individual, the department shall notify the provider and the employee of such determination in writing and no such individual shall be allowed to reside at the location or be present at the location when any child is present for care until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The department shall cease to issue funds, either directly or indirectly, to any individual or program that fails to comply with the requirements of this Code section.

(b) Every potential employee of the department or contractor performing duties on behalf of the department who may have any reason to be present at a licensed or commissioned early care and education program while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 prior to being present at a licensed or commissioned early care and education program while children are present for care. Every current employee of the department who may have any reason to be present at a licensed or commissioned early care and education program while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. Every employee of the department shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's previous fingerprint records check shall not exceed five years. The department shall maintain documentation in the appropriate personnel file indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. (Code 1981, § 20-1A-34, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, designated

the existing provisions of this Code section as subsection (a); in subsection (a), inserted "check" near the end of the last sentence; and added subsection (b).

The 2015 amendment, effective January 1, 2016, substituted the present provisions of this Code section for the former provisions, which read: "(a) The department shall transmit to GCIC both sets of

fingerprints and the records search fee from each fingerprint records check application. Upon receipt thereof, GCIC shall promptly transmit one set of fingerprints to the Federal Bureau of Investigation for a search of bureau records and an appropriate report and shall retain the other set and promptly conduct a search of its records and records to which it has access. Within ten days after receiving fingerprints acceptable to GCIC, the application, and fee, GCIC shall notify the department in writing of any derogatory finding, including but not limited to any criminal record, of the state fingerprint records check or if there is no such finding. After a search of Federal Bureau of Investigation records and fingerprints and upon receipt of the bureau's report, the department shall make a national fingerprint records check determination.

“(b) Every potential employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determina-

tion or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 prior to employment. Every current employee of the department who may have any reason to be present at a center while any child is present for care must receive a satisfactory fingerprint records check determination or have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43 by January 1, 2014. Every employee of the department shall undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's previous fingerprint records check shall not exceed five years. The department shall maintain documentation in the appropriate personnel file indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43.”

20-1A-35. (For effective date, see note.) Provisional employees; records check requirements; revocation of license, commission, or permit for violations.

(a) Where there is need for a provisional employee to work at a licensed, commissioned, or permitted early care and education program facility, such early care and education program may utilize an individual as a provisional employee only after the director reviews a preliminary records check and makes a satisfactory determination in accordance with this article. No such provisional employee shall reside in an early care and education program or be present in the early care and education program while any child is present for care until such satisfactory preliminary records check determination has been made based upon GCIC information obtained from local law enforcement within the prior ten days. The board shall be authorized to define and enforce by regulations, including, but not limited to, the length of time a provisional employee may be present at a facility without a fingerprint records check determination. The department may revoke the license, commission, or permit of an early care and education program if the early care and education program fails to comply with the requirements of this Code section and allows a person with an unsatisfactory preliminary records check determination to reside in an early care and education program or be present at an early care and education program while children are present for care.

(b) If the department determines a licensed, commissioned, or permitted early care and education program knows or should reasonably know that a provisional employee has a criminal record and allows the provisional employee to reside at an early care and education program or be present at an early care and education program while children are present for care, the department shall revoke the license, commission, or permit for that early care and education program. (Code 1981, § 20-1A-35, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

The 2015 amendment, effective January 1, 2016, substituted the present provisions of this Code section for the former provisions, which read: “Where there is need for a provisional employee to work at a center’s facility, such center may utilize an individual as a provisional employee only after the director reviews a preliminary records check and makes a satisfac-

tory determination in accordance with this article. No such provisional employee shall be present in the facility while any child is present for care until such satisfactory preliminary records check determination has been made based upon GCIC information obtained from local law enforcement within the prior ten days. The board shall be authorized to define and enforce by regulations, including, but not limited to, the length of time a provisional employee may be present at a facility without a fingerprint records check determination. The department may revoke the license of a center if the center fails to comply with the requirements of this Code section and employs a person with an unsatisfactory preliminary records check determination.”

20-1A-36. (For effective date, see note.) Certain offenders prohibited as employees of facilities.

No licensed, commissioned, or permitted facility operated as an early care and education program or similar facility or any operator of such a facility shall allow any person who has been convicted of or who has entered a plea of guilty or nolo contendere to any offense specified in Code Section 16-12-1.1 to reside in an early care and education program or be present at an early care and education program while children are present for care or allow any such person to reside at or be domiciled at such facility in violation of Code Section 16-12-1.1. The department shall either deny the issuance of or revoke the license, commission, or registration of any such facility violating the provisions of this Code section. The powers and duties set forth in this Code section are cumulative and not intended to limit the powers and duties set forth throughout this article. (Code 1981, § 20-1A-36, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2015 amendment, effective January 1, 2016, in the first sentence, inserted “licensed, commissioned, or permitted” at the beginning, substituted “allow” for “employ” near the beginning, and inserted “to

reside in an early care and education program or be present at an early care and education program while children are present for care” near the middle.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change.

20-1A-37. (For effective date, see note.) Individuals residing in family child care learning home or at certain programs; records check requirements.

Notwithstanding any other provision of this article, an individual who resides in a family child care learning home, as defined by Code Section 20-1A-2, or at any program as determined by the department and allowed under federal law to receive, either directly or indirectly, federal funds through the department for the care of children shall be required to provide a fingerprint records check application to the department. Upon receipt of such records check application, the department shall comply with all the rules and regulations promulgated by the GCIC and the Federal Bureau of Investigation for the request and receipt of national fingerprint based criminal history reports. Such individuals shall also submit all necessary applications, fees, and acceptable fingerprints to the GCIC. If the fingerprint records check determination is unsatisfactory, the department shall notify the provider and the employee of such determination in writing and no such individual shall be allowed to reside at the location or be present at the location when any child is present for care until he or she either has obtained a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license, commission, or permit of a family child care learning home if the family child care learning home fails to comply with the requirements of this Code section. (Code 1981, § 20-1A-37, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote this Code section.

The 2015 amendment, effective Janu-

ary 1, 2016, substituted “child care learning home, as defined by Code Section 20-1A-2, or at any program as determined by the department and allowed under federal law to receive, either directly or indirectly, federal funds through the department for the care of children” for “day-care home, as defined by Code Section 20-1A-2” in the first sentence; added the second and third sentences; substituted “individual shall be allowed to re-

side at the location or be present at the location” for “employee shall be allowed to reside at the day-care home or be present

at the day-care home” in the fourth sentence; and added the last sentence.

20-1A-38. (For effective date, see note.) Change of directors; records check requirements.

(a) If the director of a licensed, commissioned, or permitted early care and education program ceases to be the director of that early care and education program, the license holder, commission holder, or permit holder shall thereupon designate a new director. After such change, the license holder, commission holder, or permit holder of that early care and education program shall notify the department of such change and of any additional information the department may require regarding the newly designated director of that early care and education program, including a fingerprint records check application. Such individuals shall also submit all necessary applications, fees, and acceptable fingerprints to the GCIC. If the department determines that such newly designated director has received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 12 months old or had an unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months, such determination shall be deemed to be satisfactory for purposes of this article.

(b) If the department determines under subsection (a) of this Code section that a licensed, commissioned, or permitted early care and education program knows or should reasonably know that the newly designated director has a criminal record or an unsatisfactory determination issued by the department that has not been reversed pursuant to Code Section 20-1A-43 and allows the director to reside at an early care and education program or be present at an early care and education program while children are present for care, then the license, commission, or permit for that facility shall be revoked. (Code 1981, § 20-1A-38, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote subsections (a) and (c); and substituted “unless the unsatisfactory determination as to that director is reversed in accordance

with Code Section 20-1A-43 or the center designates another director” for “unless the center designates another director for whom it has not received or made an unsatisfactory preliminary or state or national fingerprint records check determination and proceeds” in the last sentence of subsection (b).

The 2015 amendment, effective January 1, 2016, substituted the present provisions of this Code section for the former provisions, which read: “(a) If the director

of a facility ceases to be the director of that facility, the licensee shall thereupon designate a new director. After such change, the licensee of that facility shall notify the department in writing of such change and of any additional information the department may require regarding the newly designated director of that facility, including a fingerprint records check application. If the department determines that such newly designated director has had a satisfactory fingerprint records check determination or an unsatisfactory determination reversed pursuant to Code Section 20-1A-43 within the prior 12 months, such determination shall be deemed to be satisfactory for purposes of this article. The license of that facility shall not be adversely affected by that change in director, and the licensee shall be so notified.

“(b) If the department determines under subsection (a) of this Code section that there has ever been an unsatisfactory preliminary or state or national fingerprint records check determination of the newly

designated director which has not been legally reversed, the center and that director shall be so notified. The license for that director’s facility shall be indefinitely suspended or revoked unless the unsatisfactory determination as to that director is reversed in accordance with Code Section 20-1A-43 or the center designates another director pursuant to the provisions of this Code section relating to a change of director.

“(c) If the department determines under subsection (a) of this Code section that there have been no satisfactory or legally reversed fingerprint records check determinations regarding the newly designated director within the immediately preceding 12 months, the department shall so notify the center. Upon such notification, the newly designated director shall follow the procedures for new directors as outlined in Code Section 20-1A-39, or the license of that facility shall be indefinitely suspended or revoked.”

20-1A-39. (For effective date, see note.) Potential employees; current employees and directors; records check requirements; satisfactory records check; liability for hiring ineligible employee.

(a) Before a person may become an employee of any early care and education program after that early care and education program has received a license or commission, that early care and education program shall require that person to obtain a satisfactory fingerprint records check determination. All potential employees, excluding students currently enrolled in an early education curriculum through an accredited school of higher education, may submit evidence, satisfactory to the department, that the potential employee received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 12 months old, or that any potential employee whose fingerprint records check revealed a criminal record of any kind has either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. A student currently enrolled in an early education curriculum through an accredited school of higher education may submit evidence, satisfactory to the department, that the student received a satisfactory fingerprint records check determination that includes a records check clearance date that is no more than 24 months old, or that such student whose fingerprint records check revealed a criminal record of any kind has

either subsequently received a satisfactory fingerprint records check determination or has had the unsatisfactory determination reversed in accordance with Code Section 20-1A-43. The licensed or commissioned early care and education program shall maintain documentation in the employee's personnel file, which is available to the department upon request, which reflects that a satisfactory fingerprint records check determination was received before the employee is eligible to reside at an early care and education program or be present at a licensed or commissioned early care and education program while children are present for care. If the fingerprint records check determination for any potential employee reveals a criminal record of any kind, such potential employee shall be ineligible to reside at an early care and education program or be present at an early care and education program while children are present for care until such potential employee has either obtained a satisfactory fingerprint records check determination or has had the unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. If the fingerprint records check determination is unsatisfactory, the licensed or commissioned early care and education program shall, after receiving notification of such unsatisfactory determination, take such immediate steps as are necessary so that such person no longer resides at the early care and education program or is no longer present at the early care and education program while children are present for care. The department shall revoke the license or commission of an early care and education program if the early care and education program fails to comply with the requirements of this Code section.

(b) By no later than January 1, 2017, every current employee and director of any licensed or commissioned early care and education program shall obtain either a satisfactory fingerprint records check determination or shall have had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The early care and education program shall maintain such documentation in the appropriate personnel file, which is available to the department immediately upon request. If the fingerprint records check determination is unsatisfactory, the licensed or commissioned early care and education program shall, after receiving notification of the determination, take such steps as are necessary so that such person no longer resides at the early care and education program or is no longer present at the early care and education program while children are present for care. The department shall revoke the license or commission of an early care and education program if the early care and education program fails to comply with the requirements of this Code section.

(c) Effective January 1, 2019, every employee and director of any licensed or commissioned early care and education program shall

undergo additional fingerprint records checks such that the time between such additional fingerprint records checks and that employee's or director's previous fingerprint records check shall not exceed five years. The early care and education program shall maintain documentation in the appropriate personnel file, which is available to the department immediately upon request, indicating that such person has obtained such current satisfactory fingerprint records check determination or has had an unsatisfactory fingerprint records check determination reversed in accordance with Code Section 20-1A-43. The department shall revoke the license or commission of an early care and education program if the early care and education program fails to comply with the requirements of this Code section.

(d) A license or commission shall be subject to suspension or revocation and the department may refuse to issue a license or commission if a director or employee does not undergo the fingerprint records check determination applicable to that director or employee and receive acceptable determinations.

(e) After the issuance of a license, commission, or permit, the department may require additional fingerprint records check determinations on any director or employee when the department has reason to believe the director or employee has a criminal record that renders the director or employee ineligible to have contact with children in the early care and education program, or during the course of a child abuse investigation involving the director or employee.

(f) No licensed or commissioned early care and education program may allow any person to reside at an early care and education program or be present at a licensed or permitted early care and education program while children are present for care as a director or an employee unless there is on file in the early care and education program an employment history and a satisfactory fingerprint records check determination or proof that an unsatisfactory determination has been reversed in accordance with Code Section 20-1A-43. The department shall revoke the license or commission of any early care and education program if the early care and education program fails to comply with the requirements of this Code section.

(g) A license holder, commission holder, permit holder, or director of a licensed, commissioned, or permitted early care and education program having an employee or director whom such license holder, commission holder, permit holder, or director knows or should reasonably know to have a criminal record that renders the employee or director ineligible to have contact with children in the early care and education program shall be guilty of a misdemeanor. (Code 1981, § 20-1A-39, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2013 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, rewrote subsection (a); added subsections (b) and (c); redesignated former subsections (b) through (e) as present subsections (d) through (g), respectively; in subsection (d), substituted “license shall be” for “license is” near the beginning, and substituted “undergo the fingerprint records check determination” for “undergo the records and fingerprint checks” near the middle, and substituted “acceptable” for “satisfactory” near the end; in subsection

(e), substituted “require additional fingerprint” for “require a fingerprint”, inserted “determinations”, deleted “to confirm identification for records search purposes,” following “director or employee”, and inserted “director or” near the middle; in subsection (f), substituted “fingerprint records check determination” for “preliminary records check or, if the preliminary records check determination revealed a criminal record of any kind as to such person, either satisfactory state and satisfactory national records check determinations for that person”; and, in subsection (g), inserted “licensee or” near the beginning, and substituted “such licensee or director” for “that director” near the middle.

The 2015 amendment, effective January 1, 2016, rewrote this Code section.

20-1A-40. Cooperation with GCIC and other law enforcement agencies; fees; penalty for misuse of information.

(a) GCIC and law enforcement agencies which have access to GCIC information shall cooperate with the department in performing preliminary and fingerprint records check determinations required under this article and shall provide such information so required for such records checks notwithstanding any other law to the contrary and may charge reasonable fees therefor.

(b) Any person who knowingly and under false pretenses requests, obtains, or attempts to obtain GCIC information otherwise authorized to be obtained pursuant to this article, or who knowingly communicates or attempts to communicate such information obtained pursuant to this article to any person or entity except in accordance with this article, or who knowingly uses or attempts to use such information obtained pursuant to this article for any purpose other than as authorized by this article shall be fined not more than \$5,000.00, imprisoned for not more than two years, or both. (Code 1981, § 20-1A-40, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, substituted “fingerprint records check determinations” for “fingerprint records checks” in the middle of subsection (a).

Editor’s notes. — Ga. L. 2015, p. 965, § 2/HB 401, effective January 1, 2016, reenacted this Code section without change.

20-1A-41. (For effective date, see note.) Liability for information or determinations made based upon records check.

(a) Neither GCIC, the department, any law enforcement agency, nor the employees of any such entities shall be responsible for the accuracy of information nor have any liability for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information or determination based thereon pursuant to this article.

(b) (For effective date, see note.) An early care and education program, its director, and its employees shall have no liability for defamation, invasion of privacy, or any other claim based upon good faith action thereby pursuant to the requirements of this article. (Code 1981, § 20-1A-41, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2015 amendment, effective January 1, 2016, substituted “An early care and education program” for “A center” at the beginning of subsection (b).

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change.

20-1A-42. Construction with Article 1.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Ga. L. 2015, p. 965, § 2/HB 401, effective January 1, 2016, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-1A-43. (For effective date, see note.) Contested case procedure following rejection or other suspension of license or application.

A determination by the department regarding preliminary or fingerprint records checks under this article, or any action by the department revoking, suspending, or refusing to grant or renew a license based upon such determination, shall constitute a contested case for purposes of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” except that any hearing required to be held pursuant thereto may be held reasonably expeditiously after such determination or action by the department. It is expressly provided that upon motion from any party, the hearing officer may, in his or her discretion, consider matters in mitigation of any conviction only if all terms of probation have been

successfully completed, provided that the hearing officer examines the circumstances of the case and makes an independent finding that no physical harm was done to a victim and also examines the character and employment history since the conviction and determines that there is no propensity for cruel behavior or behavior involving moral turpitude on the part of the person making a motion for an exception to sanctions normally imposed. If the hearing officer deems a hearing to be appropriate, he or she shall also notify at least 30 days prior to such hearing the office of the prosecuting attorney who initiated the prosecution of the case in question in order to allow such prosecutor to object to a possible determination that the conviction would not be a bar for the grant or continuation of a license or employment as contemplated within this chapter. If objections are made, the hearing officer shall take such objections into consideration in considering the case. (Code 1981, § 20-1A-43, enacted by Ga. L. 2004, p. 645, § 1; Ga. L. 2013, p. 285, § 2/HB 350; Ga. L. 2015, p. 965, § 2/HB 401.)

Delayed effective date. — This Code section, as set out above, becomes effective January 1, 2016. For version of this Code section in effect until January 1, 2016, see the 2015 amendment note.

The 2013 amendment, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, substituted

“he or she shall” for “he or she will” and substituted “allow such prosecutor” for “allow the prosecutor” in the third sentence; and substituted “officer shall” for “officer will” in the last sentence.

The 2015 amendment, effective January 1, 2016, inserted “only if all terms of probation have been successfully completed” in the second sentence.

20-1A-44. Regulatory authority.

Editor’s notes. — Ga. L. 2013, p. 285, § 2/HB 350, effective July 1, 2013, for the purposes of promulgating rules and regulations, and January 1, 2014, for all other purposes, reenacted this Code section without change.

Ga. L. 2015, p. 965, § 2/HB 401, effective January 1, 2016, reenacted this Code section without change. Refer to the bound volume for text of this Code section.

ARTICLE 3

CHILD CARE COUNCIL

20-1A-61. Child Care Council — Members; length of terms; appointments; removal of members.

(a) There is created the Georgia Child Care Council which shall consist of 20 members. Fourteen of those members shall be voting members appointed by the Governor and confirmed by the Senate, and two shall be voting members appointed as provided in paragraph (11) of this subsection. The 16 voting members shall be appointed as follows:

- (1) Two members shall be representatives of local or state chambers of commerce;
- (2) One member shall be a representative of the licensed or commissioned for profit child care businesses in the state;
- (3) One member shall be a representative of the licensed or commissioned not for profit child care businesses in the state;
- (4) One member shall be a representative from a public Pre-K provider;
- (5) Four members shall be consumers of child care services or persons whose children are regularly placed in child care but who have no other business connection with any child care facility or business and at least one of them shall represent the interests of children with special needs and one shall represent the interests of school age children;
- (6) One member shall represent registered family day-care homes;
- (7) One member shall represent licensed or commissioned church or synagogue child care learning centers;
- (8) One member shall be an expert or have special academic or research responsibilities in early childhood development;
- (9) One member shall represent a child care resource and referral agency;
- (10) One member shall represent a Head Start organization; and
- (11) Two members shall represent the general public and shall be appointed by the President of the Senate and the Speaker of the House of Representatives.

At the expiration of the original three-year terms of office of members of the council, successors to such members shall be appointed as follows: seven of the members appointed by the Governor shall serve for initial terms of one year and seven of such Governor appointed members shall serve for initial terms of three years; thereafter all members appointed by the Governor shall serve for terms of three years. Successors to those members appointed by the Speaker of the House of Representatives and the President of the Senate shall each serve for terms of three years. The remaining four nonvoting members shall be the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, or the designee of the State School Superintendent, the Commissioner of Labor, the commissioner of human services, and the commissioner of economic development, all of whom shall be ex officio members.

(b) The ex officio members of the council shall serve while holding their state offices.

(c) Vacancies in the office of any appointive member of the council shall be filled for the remainder of the unexpired term by appointment by the Governor in the same manner as the appointment to the position on the council which becomes vacant, and the appointment shall be submitted to the Senate for confirmation at the next regular session of the General Assembly.

(d) The Governor may remove any appointive member of the council for failure to attend meetings, neglect of duty, or incompetence.

(e) Any appointive member of the council who, during such person’s term of office, ceases to meet the qualifications for the original appointment or does not attend three or more successive meetings of the council shall forfeit such person’s membership on the council.

(f) Each member of the council shall take an oath of office before the Governor that he or she will faithfully perform the duties of office. (Code 1981, § 49-5-241, enacted by Ga. L. 1991, p. 1648, § 1; Ga. L. 1993, p. 1063, § 1; Ga. L. 1994, p. 97, § 49; Code Section 20-1A-61, as redesignated by Ga. L. 2004, p. 645, §§ 2, 3; Ga. L. 2004, p. 690, § 23; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2009, p. 453, § 2-4/HB 228; Ga. L. 2013, p. 285, § 8/HB 354.)

The 2013 amendment, effective July 1, 2013, substituted “child care learning centers” for “day-care centers” in paragraph (a)(7).

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ARTICLE 1

STATE BOARD OF EDUCATION

20-2-14. Acceptance of donations, grants, and federal aid for vocational or other educational purposes; matching funds; authorization to make transfers.

(a) The State Board of Education is authorized to receive, accept, hold, and operate, on behalf of the state, donations, grants, gifts, devises, and bequests of real, personal, and mixed property of every kind and character; to lease, manage, and otherwise administer such property for the use, benefit, and behalf of the public school system of Georgia; and to accept on behalf of the state any funds which may be now or hereafter provided for, or be, or hereafter become available or allotted to the state by virtue of any appropriation by Congress or under any governmental regulation, order, or declaration of policy for either vocational or other educational purposes conducted either in or out of school, in connection with, or as an incident of, any program of vocational education now or hereafter established as essential to national defense either for industrial or agricultural occupations, and whether as part of a federal or a state program or a combination of both, in furtherance of vocational educational objectives generally. The state board is authorized to acquire and hold title for and on behalf of the state for the benefit of the public school system thereof any equipment or supplies, both permanent and expendable, that may be necessary for such purposes; to act as the contracting agent therefor and the custodian thereof; to delegate, in whole or in part, any function or activity enumerated or contemplated under this Code section; to contract with and cooperate with any department, agency, or instrumentality, either of the state or of the United States in any manner which shall be requisite or incident to this Code section and which in the judgment of the state board may be deemed proper for the carrying into effect of the purposes of this article; and to use so much of the public school fund or other funds appropriated by the General Assembly as may be necessary to match any such federal aid or to meet the terms of any past, present, or future grant to the state or any local school unit whereby the state or any local school unit, respectively, may be enabled to derive full advantage of the benefits thereof to the state as contemplated under the terms and provisions of any such grant for educational purposes.

(b) The State Board of Education is authorized to transfer any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board to the Georgia Foundation for Public Education to be managed and otherwise administered by such foundation. This subsection shall apply to any donation,

gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board pursuant to Paragraph I(c), Section II, Article VIII of the Georgia Constitution, subsection (a) of this Code section, or Code Section 20-2-18. (Ga. L. 1937, p. 864, § 4; Ga. L. 1941, p. 568, § 1; Ga. L. 2013, p. 769, § 1/HB 116.)

The 2013 amendment, effective July 1, 2013, designated the existing provisions of this Code section as subsection 1, 2013, designated the existing provisions of this Code section as subsection (a), and added subsection (b).

20-2-14.1. Georgia Foundation for Public Education; authorization to accept transfers of certain property held in trust by State Board of Education.

(a) There is established the Georgia Foundation for Public Education existing as a public corporation and instrumentality of the state, exclusively limited to the following charitable and public purposes and powers:

(1) To solicit and accept contributions of money and in-kind contributions of services and property for the purpose of supporting educational excellence in Georgia;

(2) To solicit and accept contributions of money and in-kind contributions of services and property for the purpose of supporting educational excellence at Georgia Academy for the Blind, Georgia School for the Deaf, and Atlanta Area School for the Deaf;

(3) To accept transfer of any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the State Board of Education to manage and otherwise administer. This paragraph shall apply to any donation, gift, devise, or bequest of real, personal, or mixed property of any kind and character held in trust by the state board pursuant to Paragraph I(c), Section II, Article VIII of the Georgia Constitution, subsection (a) of Code Section 20-2-14, or Code Section 20-2-18;

(4) To sell and dispose of contributed property and securities in accordance with the prudent person rule;

(5) To make and disburse contributions to the department and others for such purposes;

(6) To contract and be contracted with for purposes of the foundation; and

(7) To seek recognition of tax exempt status by the United States Internal Revenue Service and to seek confirmation concerning the deductibility of contributions.

(b) The Georgia Foundation for Public Education shall be attached to the department for administrative purposes. The Attorney General

shall be the attorney for the foundation. The State School Superintendent may solicit and accept contributions from the foundation. The department may cooperate and contract with the foundation for their mutual benefit and authorize others to do so. Upon any dissolution of the foundation, its assets shall devolve in trust to the State Board of Education or its successor for use only for the benefit of the department and the schools listed in paragraph (2) of subsection (a) of this Code section.

(c) The creation of the foundation and the execution of its corporate purposes shall be in all respects for the benefit of the people of this state and constitute a public and charitable purpose. Further, the foundation performs an essential governmental function in the exercise of the powers conferred upon it by this Code section. Accordingly, the foundation shall not be subject to taxation or assessment in any manner, including without limitation taxation or assessment upon any transaction, income, money, or other property or activity. The exemptions granted by this Code section shall not be extended to any private person or entity.

(d)(1) The foundation shall be governed by a board of directors composed of between five and 15 members as determined by the State School Superintendent. Members of the board of directors shall be appointed by either the State School Superintendent or the State Board of Education. For every three board members appointed by the State School Superintendent, the State Board of Education may appoint two board members. At least two members of the board of directors appointed by the State Board of Education shall represent the interests of students who are blind or deaf. The chairperson of the Budget and Finance Committee of the State Board of Education, or such committee's successor, shall be an ex officio member of the foundation board of directors. The foundation board of directors shall draft and adopt governance bylaws, subject to approval by the State School Superintendent.

(2) The foundation shall have complete discretion to invest any and all assets as it sees fit in accordance with the prudent person rule, and at no time shall the assets of the foundation be considered assets of the state.

(3) The foundation shall not be subject to state purchasing laws, as contained in Article 3 of Chapter 5 of Title 50 or in other provisions of this Code, or required to dispose of property in accordance with Article 4 of Chapter 5 of Title 50.

(4) The foundation shall be authorized to purchase insurance as provided by Code Section 50-5-16.

(5) The foundation shall have the authority to roll over any unused funds into the next fiscal year.

(e) The foundation’s operations shall not be subject to Article 1 of Chapter 13 of Title 50, the “Georgia Administrative Procedure Act.”

(f) The foundation shall be deemed to be a charitable organization for purposes of voluntary contributions from state employees pursuant to Article 3 of Chapter 20 of Title 45. (Code 1981, § 20-2-14.1, enacted by Ga. L. 2010, p. 411, § 1/SB 427; Ga. L. 2013, p. 769, § 2/HB 116.)

The 2013 amendment, effective July 1, 2013, added paragraph (a)(3); and re-designated former paragraphs (a)(3) through (a)(6) as present paragraphs (a)(4) through (a)(7), respectively.

ARTICLE 3

LOCAL BOARDS OF EDUCATION

20-2-49. Standards for local board of education members.

JUDICIAL DECISIONS

Constitutionality of statute providing for removal from office. — Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).
Whether characterized as setting a qualification for continued service on the

local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-50. County school districts; county board for each county.

JUDICIAL DECISIONS

County board is without power to delegate the board’s authority to manage affairs of school district.
High school student’s allegation against a school board and official for invasion of privacy by the use of a Facebook photo of the student in a bikini in a presentation on internet security failed to show that the student suffered a deprivation of federal rights caused by a school district policy or custom, given that there was an express policy against embarrassing stu-

dents and given that the official who used the photo did not have policy-making authority. *Chaney v. Fayette County Pub. Sch. Dist.*, 977 F. Supp. 2d 1308 (N.D. Ga. 2013).
Immunity. — School district, as established by Georgia law, was not an arm of the state for purposes of Eleventh Amendment immunity. *Lightfoot v. Henry County Sch. Dist.*, 771 F.3d 764 (11th Cir. 2014).

20-2-51. Election of local board of education members; persons ineligible to be members or superintendent; ineligibility for local boards of education; ineligibility for other elective offices.

(a) No person shall be eligible for election as a member of a local board of education who is not a resident of the school district in which that person seeks election and of the election district which such person seeks to represent. Whenever there is in a portion of any county a local school system having a board of education of its own, receiving its pro rata of the public school fund directly from the State School Superintendent and having no dealings whatever with the local board, then the members of the board of such county shall be selected from that portion of the county not embraced within the territory covered by such local system.

(b) Whenever a member of a local board of education moves that person's domicile from the district which that person represents, such person shall cease to be a member of such local board of education, and a vacancy shall occur. The member shall provide notice of such move to the secretary of the local board of education and the election superintendent within ten days of such move.

(c)(1) No person serving on the governing body of a private elementary or secondary educational institution shall be eligible to serve as a member of a local board of education.

(2) No person employed by a local board of education shall be eligible to serve as a member of that board of education.

(3) No person employed by the Department of Education or serving as a member of the State Board of Education shall be eligible to serve as a member of a local board of education.

(4)(A) No person who has an immediate family member sitting on a local board of education or serving as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system shall be eligible to serve as a member of such local board of education. As used in this paragraph, the term "immediate family member" means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent whose employment as the local school superintendent or as a principal, assistant principal, or system administrative staff in the local school system began on or after January 1, 2010. This paragraph shall apply only to local board of education members elected or appointed on or after July 1, 2009. Nothing in this Code section shall affect the employment of any person who is employed by a local school system on or before July 1, 2009, or who is

employed by a local school system when an immediate family member becomes a local board of education member for that school system.

(B) Notwithstanding subsection (b) of Code Section 20-2-244, in local school systems in which the initial fall enrollment count conducted in 2009 pursuant to Code Section 20-2-160 does not exceed a full-time equivalent count of 2,800, the State Board of Education shall be authorized to waive this paragraph upon the request of a local board of education or an individual attempting to qualify to run for local board of education member and in accordance with the provisions of subsections (d) and (e) of Code Section 20-2-244; provided, however, that prior to submitting any such request, the local board of education shall, upon its own initiative, or at the request of such individual attempting to qualify to run for local board of education member:

(i) Provide 30 days' notice of the individual's intent to run for office; and

(ii) Conduct a public hearing for the purpose of providing an opportunity for full discussion and public input on the issue of potential nepotism problems and other concerns with regard to such waiver. The public hearing shall be advertised at least seven days prior to the date of such hearing in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised. The public hearing may be conducted in conjunction with a regular or called meeting of the local board or may be conducted independently, at the local board's discretion.

The cost of such notice and public hearing shall be borne by the local board. The State Board of Education shall approve or deny a waiver request no later than 45 days after receipt of such waiver request, taking into consideration whether the benefit to the public would justify approval of the waiver. An approved waiver must be received by the local election superintendent prior to an individual's filing of a declaration or notice of candidacy in accordance with Article 4 of Chapter 2 of Title 21.

(d) Reserved.

(e) In addition to any other requirements provided by law, no person shall be eligible for election as a member of a local board of education unless he or she:

(1) Has read and understands the code of ethics and the conflict of interest provisions applicable to members of local boards of education and has agreed to abide by them; and

(2) Has agreed to annually disclose compliance with the State Board of Education's policy on training for members of local boards of education, the code of ethics of the local board of education, and the conflict of interest provisions applicable to members of local boards of education.

Each person offering his or her candidacy for election as a member of a local board of education shall file an affidavit with the officer before whom such person has qualified for such election prior to or at the time of qualifying, which affidavit shall affirm that he or she meets all of the qualifications required pursuant to this subsection. This subsection shall apply only to local board of education members elected or appointed on or after July 1, 2010.

(f) No person who is on the National Sex Offender Registry or the state sexual offender registry shall be eligible for election to or service on a local board of education. (Ga. L. 1919, p. 288, § 77; Code 1933, § 32-902; Ga. L. 1953, Nov.-Dec. Sess., p. 334, § 1; Code 1933, § 32-903.1, enacted by Ga. L. 1972, p. 236, §§ 1, 2; Code 1933, § 32-903.2, enacted by Ga. L. 1975, p. 828, § 1; Ga. L. 1981, p. 602, § 1; Ga. L. 1981, p. 1549, §§ 1, 2; Ga. L. 1982, p. 2107, § 17; Ga. L. 1983, p. 3, §§ 16, 53; Ga. L. 1984, p. 22, § 20; Ga. L. 1989, p. 425, § 1; Ga. L. 1992, p. 2339, § 1; Ga. L. 1993, p. 1279, § 1; Ga. L. 2009, p. 367, § 1/SB 14; Ga. L. 2009, p. 782, § 2/HB 251; Ga. L. 2010, p. 452, § 2/SB 84; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2015, p. 1376, § 1/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted "Reserved" for the former provisions of subsection (d), which read: "In all counties of this state having a population of not less than 500,000 or more than 600,000 according to the United States decennial census of 1990 or any future such census, the members of the county boards of education taking office after December 1, 1975, shall not hold any other elective governmental of-

fice. If any member of any such board should qualify at any time after December 1, 1975, for nomination or election to any other elective governmental office other than for membership on such county board, such member's position on such county board shall thereby become vacant. Such vacancy shall be filled as provided by the law applicable to any such county board."

JUDICIAL DECISIONS

School board officials related to school employees.

County residents' challenge to a school board candidate's residency qualification under O.C.G.A. § 45-2-1(1) and Ga. Const. 1983, Art. VIII, Sec. V, Para. II, was

barred by res judicata because another challenger had raised the same challenge, and the challenge had been resolved against the challenger by the county's board of elections. *Lilly v. Heard*, 295 Ga. 399, 761 S.E.2d 46 (2014).

20-2-52.1. Composition and election of county boards of education in counties in which there is a homestead option sales and use tax and a county sales and use tax for educational purposes; terms of service.

(a) On and after January 1, 2015, in counties in which there is being collected a homestead option sales and use tax pursuant to Article 2A of Chapter 8 of Title 48 and a county sales and use tax for educational purposes pursuant to Part 2 of Article 3 of Chapter 8 of Title 48 and the county board of education consists of more than seven members, such county boards of education shall comply with this Code section. Such county boards of education shall consist of seven members elected from separate single-member districts of approximately equal population. The number of members may be reduced to less than seven members by local legislation, but such members shall be elected from separate single-member districts of approximately equal population.

(b) Unless otherwise provided by local law, such county boards of education shall select from among their membership a chairperson and vice chairperson at the first meeting of each odd-numbered year.

(c) Unless otherwise provided by local law, such county boards of education shall serve staggered, four-year terms of office.

(d) In the event that a local law is not enacted prior to the qualifying period for the 2014 elections to conform the provisions of law regarding boards of education subject to this Code section to the size requirements of this Code section and if the election structure of such local board of education contains a plan for seven members from separate single-member districts encompassing all of the school district in addition to any other election provisions, then on January 1, 2015, the board of education shall consist only of seven members elected from such separate single-member districts and all other positions in excess of those seven shall be eliminated. In such case, those persons serving from odd-numbered districts shall serve for an initial term of two years and until their respective successors are elected and qualified. Those persons serving from even-numbered districts shall serve for an initial term of four years and until their respective successors are elected and qualified. Thereafter, successors to such members shall be elected at the general election immediately prior to the end of their respective terms of office to take office on January 1 immediately following such election for terms of four years and until their respective successors are elected and qualified. After January 1, 2015, the composition of such districts, number of districts, and staggering of terms may be changed by local law consistent with the provisions of this Code section, but shall not be changed prior to such date. (Code 1981, § 20-2-52.1, enacted by Ga. L. 2011, p. 26, § 2/SB 79; Ga. L. 2012, p. 1133, § 1/SB 412; Ga. L. 2014, p. 11, § 1/HB 979.)

The 2014 amendment, effective February 26, 2014, in subsection (a), inserted “separate” preceding “single-member” in

the second and third sentences; and added subsection (d).

20-2-54. Resignation of member of county board or superintendent.

Reserved. Repealed by Ga. L. 1986, p. 996, § 3, effective July 1, 1986.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(2)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and

correct the Code, reserved the designation of this Code section.

20-2-55. Per diem, insurance, and expenses of local board members.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 139 (2012).

20-2-60. Consolidation of county schools.

The board of education of any county shall have the right, if, in its opinion, the welfare of the schools of the county and the best interests of the pupils require, to consolidate two or more schools into one school, to be located by the county board at a place convenient to the pupils attending the consolidated school. (Ga. L. 1919, p. 288, § 90; Code 1933, § 32-915; Ga. L. 1946, p. 206, § 3; Ga. L. 2013, p. 1061, § 1/HB 283.)

The 2013 amendment, effective July 1, 2013, deleted “, the schoolhouse to be located as near the center of the district or

districts as practicable” following “school” at the end of this Code section.

20-2-61. Fundamental roles of local boards of education and local school superintendents.

JUDICIAL DECISIONS

Constitutionality of statute providing for removal from office. — Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

Whether characterized as setting a qualification for continued service on the

local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-73. Suspension and removal of local school board members upon potential loss of accreditation; procedures; prohibition on use of public funds for litigation expenses; reimbursement of expenses.

(a) Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if a local school system or school is placed on the level of accreditation immediately preceding loss of accreditation for school board governance related reasons by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519, the local board of education shall notify the State Board of Education in writing within three business days of such placement and the State Board of Education shall conduct a hearing in not less than ten days of such notice nor more than 90 days and recommend to the Governor whether to suspend all eligible members of the local board of education with pay. A majority of the members of a local board of education may petition the State Board of Education to continue any hearing scheduled under this subsection. Upon a showing of good cause, the state board may in its sound discretion continue any such hearing. Notwithstanding any other provision of law, deliberations held by the State Board of Education pursuant to this subsection to formulate its recommendation to the Governor shall not be open to the public; provided, however, that testimony shall be taken in an open meeting and a vote on the recommendation shall be taken in an open meeting following the hearing or at the next regularly scheduled meeting. If the State Board of Education makes such recommendation, the Governor may, in his or her discretion, suspend all eligible members of the local board of education with pay and, in consultation with the State Board of Education, appoint temporary replacement members who shall be otherwise qualified to serve as members of such board.

(b) Any local board of education member suspended under this Code section may petition the Governor for reinstatement no earlier than 30 days following suspension and no later than 60 days following suspension. In the event that a suspended member does not petition for reinstatement within the allotted time period, his or her suspension shall be converted into permanent removal, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member.

(c) Upon petition for reinstatement by a suspended local board of education member, the Governor or his or her designated agent shall conduct a hearing for the purpose of receiving evidence relative to whether the local board of education member's continued service on the local board of education is more likely than not to improve the ability of the local school system or school to retain or reattain its accreditation. The appealing member shall be given at least 30 days' notice prior to

such hearing. Such hearing shall be held not later than 90 days after the petition is filed and in accordance with Chapter 13 of Title 50, the “Georgia Administrative Procedure Act,” except that the individual conducting the hearing shall have the power to call witnesses and request documents on his or her own initiative. For purposes of said chapter and any hearing conducted pursuant to this Code section, the Governor shall be considered the agency, and the Attorney General or his or her designee shall represent the interests of the Governor in the hearing. If it is determined that it is more likely than not that the local board of education member’s continued service on the local board of education improves the ability of the local school system or school to retain or reattain its accreditation, the member shall be immediately reinstated; otherwise, the member shall be permanently removed, and the temporary replacement member shall become a permanent member and serve out the remainder of the term of the removed member or until the next general election which is at least six months after the member was permanently removed, whichever is sooner. Judicial review of any such decision shall be in accordance with Chapter 13 of Title 50.

(d) Subsection (a) of this Code section shall apply to a local school system or school which is placed on the level of accreditation immediately preceding loss of accreditation on or after April 20, 2011.

(e) For purposes of this Code section, an eligible member of a local board of education shall mean a board member who was serving on the local board at the time the accrediting agency placed the local school system or school on the level of accreditation immediately preceding loss of accreditation.

(f) A local board of education shall not expend any public funds for attorney’s fees or expenses of litigation relating to proceedings initiated pursuant to this Code section except to the extent such fees and expenses are incurred prior to and through the recommendation of the state board as provided for in subsection (a) of this Code section; provided, however, that nothing in this subsection shall be construed to prohibit an insurance provider from covering attorney’s fees or expenses of litigation under an insurance policy.

(g) Any suspended board member who is reinstated by the Governor pursuant to this Code section may be reimbursed by the local board of education for his or her reasonable attorney’s fees and related expenses incurred in pursuing such reinstatement. (Code 1981, § 20-2-73, enacted by Ga. L. 2010, p. 452, § 8/SB 84; Ga. L. 2011, p. 1, § 12/HB 326; Ga. L. 2011, p. 26, § 3/SB 79; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 763, § 1/HB 115.)

The 2013 amendment, effective May 6, 2013, in subsection (a), deleted the paragraph (1) designation, in the first sentence, inserted “the local board of edu-

cation shall notify the State Board of Education in writing within three business days of such placement and” near the middle, substituted “ten days of such notice nor more than 90 days” for “ten days nor more than 30 days”, and added the second through fourth sentences; deleted former paragraph (a)(2), which read: “Notwithstanding Code Section 20-2-54.1 or any other provisions of law to the contrary, if a local school system or school has been placed on, as of April 20, 2011, the level of accreditation immediately preceding loss of accreditation for school board governance related reasons by one or more accrediting agencies included in subparagraph (A) of paragraph (6) of Code Section 20-3-519 and does not reattain full accreditation status by July 1, 2011, the State Board of Education shall conduct a hearing in not less than ten days nor more

than 30 days and recommend to the Governor whether to suspend all members of the local board of education with pay. If the State Board of Education makes such recommendation, the Governor may, in his or her discretion, suspend all members of the local board of education with pay and, in consultation with the State Board of Education, appoint temporary replacement members who shall be otherwise qualified to serve as members of such board.”; in subsection (d), substituted “Subsection” for “Paragraph (1) of subsection” at the beginning; substituted the present provisions of subsection (e) for the former provisions, which read: “This Code section shall apply to all local board of education members, regardless of when they were elected or appointed”; and added subsections (f) and (g).

JUDICIAL DECISIONS

Constitutionality. — Whether characterized as setting a qualification for continued service on the local board in the extraordinary circumstance of an imminent loss of accreditation, or whether characterized as providing for removal for malfeasance, misfeasance, or nonfeasance in office, O.C.G.A. § 20-2-73 was held by the Georgia Supreme Court to be a permissible exercise of the legislative power to provide for the removal for cause of members of local boards. *DeKalb County*

Sch. Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 751 S.E.2d 827 (2013).

Georgia Supreme Court held that the removal of local school board members under O.C.G.A. § 20-2-73 was not an unconstitutional infringement upon the governing authority of local school boards, nor was it a violation of any other constitutional provision or right. *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-2-75. Failure of board members to fulfill obligations; litigation expenses; role of Attorney General.

Repealed by Ga. L. 2015, p. 385, § 1-4.1/HB 252, effective July 1, 2015.

Editor’s notes. — This Code section was based on Code 1981, § 20-2-75, enacted by Ga. L. 2013, p. 1061, § 2/HB 283. Ga. L. 2015, p. 385, § 6-1/HB 252, not

codified by the General Assembly, provides that: “This Act shall be known and may be cited as the ‘J. Calvin Hill, Jr., Act.’”

ARTICLE 4

INCREASED FLEXIBILITY FOR LOCAL SCHOOL SYSTEMS

20-2-80. Requests for increased flexibility; Title 20/No Waivers System.

(a) A local school system may request increased flexibility from certain state laws, rules, and regulations in exchange for increased accountability and defined consequences through a contract with the State Board of Education. Such contract shall establish a framework of accountability, flexibility, and consequences in accordance with this article.

(b) A local school system may elect not to request increased flexibility in exchange for increased accountability and defined consequences and elect to remain under all current laws, rules, regulations, policies, and procedures, and such local school system, which shall be known as a Title 20/No Waivers system, shall:

(1) Conduct a public hearing for the purpose of providing public notice that such local school system is electing to be a Title 20/No Waivers system and to remain subject to all state rules, regulations, policies, and procedures and the provisions of this title. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised; and

(2) Sign a statement on a form provided by the state board that such local school system is electing to be a Title 20/No Waivers system. (Code 1981, § 20-2-80, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2015, p. 1376, § 1A/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (b), substituted “elect” for “opt” and inserted “, which shall be known as a Title 20/No Waivers system,” near the end, substituted “electing to be a Title 20/No Waivers system and to remain subject to all state rules, regula-

tions, policies, and procedures and the provisions of this title” for “opting for the status quo” in the first sentence of paragraph (b)(1), and substituted “electing to be a Title 20/No Waivers system” for “opting for the status quo” at the end of paragraph (b)(2).

20-2-81. Strategic plan and proposed contract for local school systems requesting flexibility; strategic waivers school system.

(a) Each local school system which elects to request increased flexibility pursuant to this article shall develop a five-year strategic plan which sets out the school system’s vision and mission for improving the performance of its schools and shall clearly delineate in a

proposed contract the following for measuring the improvement and performance of its schools:

(1) Current performance data, grade levels, and demographic data for each school within the school system;

(2) Performance goals for each school, including both improvement and achievement; and

(3) Performance measures and benchmarks for each school for evaluating improvement and achievement and monitoring progress toward yearly performance goals.

(b) The proposed strategic plan shall incorporate, to the extent practicable, school improvement plans in effect for schools in the local school system.

(c) The department shall provide an electronic template accessible through the Internet for local school systems to input their proposed contracts. The template shall be designed to include the information contained in subsection (a) of this Code section.

(d) Prior to the submission of a proposed contract to the department, a local board of education shall schedule and hold a public hearing for the purpose of providing an opportunity for full discussion and public input on the strategic plan and proposed contract, including formal, written comments or suggestions regarding the local school system's flexibility requests and performance goals and their impact on each school. The public hearing shall be advertised in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised.

(e) The local school system shall submit the proposed contract to the department in accordance with time frames established by the department.

(f) A local school system which elects to request increased flexibility pursuant to this article shall be known as a strategic waivers school system. (Code 1981, § 20-2-81, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2015, p. 1376, § 1B/HB 502.)

The 2015 amendment, effective July 1, 2015, added subsection (f).

20-2-82. Contract terms for local school systems requesting flexibility.

(a) The local board of education and the department shall enter into negotiations on the appropriate terms of the contract, including the accountability, flexibility, and consequences components of the contract in accordance with Code Section 20-2-84, in consultation with the Office

of Student Achievement. The accountability, flexibility, and consequences components may vary between schools and clusters.

(b) The flexibility requested by a local school system pursuant to subsection (b) of Code Section 20-2-84 shall result in consequences in accordance with subsection (c) of Code Section 20-2-84 and Code Section 20-2-84.1 for noncompliance with the accountability requirements established pursuant to subsection (a) of Code Section 20-2-84.

(c) The department, in consultation with the Office of Student Achievement, shall make a recommendation to the state board on whether the proposed terms of the contract should be approved by the state board.

(d)(1) The state board shall have the authority to approve or deny approval of the proposed terms of the contract but shall give all due consideration to the recommendation and input from the Office of Student Achievement.

(2) In the event that the state board denies approval of the proposed terms of the contract, the local board of education shall work with the department, in consultation with the Office of Student Achievement, for further revisions and resubmission to the state board.

(e) The state board shall be authorized to approve a waiver or variance request of specifically identified state rules, regulations, policies, and procedures or provisions of this chapter upon the inclusion of such request in the local school system's proposed contract and in accordance with subsection (b) of Code Section 20-2-84. The goal for each waiver and variance shall be improvement of student performance. The state board shall not be authorized to waive or approve variances on any federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-210; the requirements of Code Section 20-2-211.1; or the requirements in subsection (c) of Code Section 20-2-327. A local school system that has received a waiver or variance shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request. (Code 1981, § 20-2-82, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2010, p. 237, § 1C/HB 1079; Ga. L. 2011, p. 635, § 2/HB 186; Ga. L. 2015, p. 1376, § 2/HB 502.)

The 2015 amendment, effective July 1, 2015, inserted “the requirements of Code Section 20-2-210;” in the next to the last sentence of subsection (e).

20-2-84. (For effective date, see note.) Accountability, flexibility, and consequences components of contract.

(a) The accountability component of the contract provided in Code Section 20-2-83 shall include at least one of the student achievement measures in paragraphs (1) through (4) of this subsection, including both total scores and any needed targeted subgroups:

- (1) High school graduation rates;
- (2) SAT or ACT performance;
- (3) State standardized test data, which may include end-of-grade assessments, end-of-course assessments, or a combination thereof;
- (4) Advanced placement or international baccalaureate participation and performance; and
- (5) Any other accountability measures included pursuant to Part 3 of Article 2 of Chapter 14 of this title.

(b) The flexibility component of the contract provided in Code Section 20-2-83 shall include the waiver or variance of at least one of the areas in paragraphs (1) through (4) of this subsection as requested by the local school system:

- (1) Class size requirements in Code Section 20-2-182;
- (2) Expenditure controls in Code Section 20-2-171 and categorical allotment requirements in Article 6 of this chapter;
- (3) Certification requirements in Code Section 20-2-200;
- (4) Salary schedule requirements in Code Section 20-2-212; and
- (5) Any other requirements or provisions of this chapter as identified by the local school system and approved by the state board except as provided in subsection (e) of Code Section 20-2-82.

(c) The consequences component of the contract provided in Code Section 20-2-83 shall include:

- (1) (For effective date, see note.) Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress pursuant to Code Section 20-14-41, which may be accelerated; and
- (2) Loss of governance of one or more nonperforming schools by the local school system in accordance with Code Section 20-2-84.1.

Consequences shall be incurred upon noncompliance of a local school system with the accountability component of its contract; provided, however, that if a local school system has been in compliance with the accountability component of its contract for at least three years, consequences shall not be invoked upon the fifth year of the contract, and such school system may request an extension of its contract and corresponding flexibility from the state board. If the local school system or a school within the school system meets the performance goals in its contract for such school system or school by the end of the fifth year of the contract, the school system or school shall be deemed to have met its contract performance goals. The schedule of interventions or sanctions, including loss of governance, for failure to meet identified levels of achievement or specified levels of progress shall be mutually agreed upon in the contract. If the Office of Student Achievement recommends to the state board that loss of governance not be included in a contract with respect to a high performing school, the contract may provide alternate terms with respect to that school. (Code 1981, § 20-2-84, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2013, p. 1061, § 3/HB 283; Ga. L. 2015, p. 21, § 1/HB 91; Ga. L. 2015, p. 92, § 3/SB 133.)

Delayed effective date. — Ga. L. 2015, p. 92, § 6(a)/SB 133, provides that the 2015 amendment becomes effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools. This Code section, as set out above, does not reflect the amendment by that Act owing to the delayed effective date. If the amendment is approved, paragraph (c)(1) will read as follows: “Interventions or sanctions for failure to meet identified levels of achievement or for not showing specified levels of progress; and”.

The 2013 amendment, effective July 1, 2013, in the ending undesignated paragraph of subsection (c), deleted “consecutive” preceding “years” near the middle of the first sentence, and added the second sentence.

The 2015 amendments. — The first 2015 amendment, effective March 30, 2015, substituted “end-of-grade assessments,” for “criterion-referenced competency tests, the Georgia High School Graduation Test,” in paragraph (a)(3). The second 2015 amendment deletes “pursuant to Code Section 20-14-41, which may be accelerated” from paragraph (1) of subsection (b). For effective date of this amendment, see the delayed effective date note.

20-2-84.1. Loss of governance for nonperforming schools.

(a) The State Board of Education shall, as provided for in the contract entered into with a local school system pursuant to Code Section 20-2-83, mandate the loss of governance of one or more of its nonperforming schools as a consequence of failure pursuant to paragraph (2) of subsection (c) of Code Section 20-2-84. Such loss of governance may include, but shall not be limited to:

- (1) Conversion of a school to charter status with independent school level governance and a governance board with strong parental involvement;
 - (2) Operation of a school by a successful school system, as defined by the Office of Student Achievement, and pursuant to funding criteria established by the state board; or
 - (3) Operation of a school by a private entity, nonprofit or for profit, pursuant to a request for proposals issued by the department.
- (b) Loss of governance shall be invoked upon the end of the fifth year of the contract if the school system is in noncompliance as set out in the terms of the contract. (Code 1981, § 20-2-84.1, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2013, p. 1061, § 4/HB 283.)

The 2013 amendment, effective July 1, 2013, inserted “end of the” near the beginning of subsection (b).

20-2-84.3. Required notifications by local school systems.

No later than June 30, 2015, each local school system shall either notify the department of its intention to become a strategic waivers school system pursuant to this article or shall comply with subsection (b) of Code Section 20-2-80, electing to be a Title 20/No Waivers system. (Code 1981, § 20-2-84.3, enacted by Ga. L. 2008, p. 82, § 1/HB 1209; Ga. L. 2011, p. 647, § 2/HB 192; Ga. L. 2015, p. 1376, § 2A/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted the present provisions of this Code section for the former provisions, which read: “(a) No more than five local school systems in the first calendar year may enter into a contract with the State Board of Education pursuant to this article.

“(b) No later than June 30, 2015, each local school system shall either notify the department of its intention to request increased flexibility pursuant to this article or shall comply with subsection (b) of Code Section 20-2-80.”

ARTICLE 5

LOCAL SCHOOL SUPERINTENDENTS

20-2-101. Appointment of school superintendents.

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION

General Consideration

When election unauthorized, or statutory requirements not complied with, election void.

Triable issues of fact existed as to whether the school district intentionally discriminated against the employee's race when the district issued the employee a two-year contract as superintendent of

the school district and when the district failed to renew the employee's contract; of all the superintendents appointed by the school district after a change in the law, only the employee, the first African-American superintendent, received a two-year, probationary contract. *Dickey v. Crawford County Sch. Dist.*, No. (CAR), 2013 U.S. Dist. LEXIS 30505 (M.D. Ga. Mar. 5, 2013).

20-2-102. Qualifications of county school superintendents; filing proof of certification; exemptions.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 9, effective April 15, 1993.

Editor's notes. — Ga. L. 2014, p. 866, § 20(3)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, reserved the designation of this Code section.

20-2-103. Oath of local school superintendent.

Before entering upon the discharge of his or her official duties, the local school superintendent shall take and subscribe to the following oath of office:

STATE OF GEORGIA
COUNTY OF _____

I, _____, do solemnly swear or affirm that I will truly perform the duties of local school superintendent of the _____ School System to the best of my ability.

I do further swear or affirm:

- (1) That I am not the holder of any unaccounted for public money due this state or any political subdivision or authority thereof;
- (2) That I am not the holder of any office of trust under the government of the United States, any other state, or any foreign state which I am by the laws of the State of Georgia prohibited from holding;
- (3) That I am otherwise qualified to hold said office according to the Constitution and the laws of Georgia; and
- (4) That I will support the Constitution of the United States and of this state.

Signature of local school superintendent

Typed name of local school superintendent

Sworn and subscribed
before me this _____ day
of _____, _____.
(SEAL).

(Ga. L. 1919, p. 288, § 152; Code 1933, § 32-1007; Ga. L. 2012, p. 358, § 6/HB 706; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “Typed name of local school superintendent” for “Typed name of member of _____ local school superintendent” near the end of the oath.

20-2-105. Suspension of county school superintendent; notice and hearing; appeal.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 10, effective January 1, 1997.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(4)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, reserved the designation of this Code section.

20-2-106. Removal of county school superintendent; notice and hearing; appeal.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 11, effective January 1, 1997.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(5)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, reserved the designation of this Code section.

20-2-107. Filling vacancies in office of county school superintendent.

Reserved. Repealed by Ga. L. 1993, p. 1279, § 12, effective April 15, 1993.

Editor’s notes. — Ga. L. 2014, p. 866, § 20(6)/SB 340, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, reserved the designation of this Code section.

20-2-109. Duties of local school superintendents.**JUDICIAL DECISIONS**

Superintendent as policymaker. — No clearly established law barred firing a school superintendent, considered a policymaking or confidential employee under Georgia law and an executive on whom the school board relied to enforce policies, for speaking about inadequate property tax collections as such speech

was about quintessential policy matters; individual school board officials had qualified immunity on claims of retaliatory termination under the First and Fourteenth Amendments. *Leslie v. Hancock County Bd. of Educ.*, 720 F.3d 1338 (11th Cir. 2013).

20-2-110. Offices for county school superintendents.

Reserved. Repealed by Ga. L. 2013, p. 1061, § 5/HB 283, effective July 1, 2013.

Editor's notes. — This Code section was based on Ga. L. 1919, p. 288, § 157; Code 1933, § 32-1012.

ARTICLE 6**QUALITY BASIC EDUCATION****PART 1****SHORT TITLE AND PURPOSE****20-2-131. Objectives and purposes of program.**

The General Assembly of Georgia, recognizing the need for:

(1) Implementing a highly rigorous curriculum to encompass content standards in public schools state wide which ensures that each student is provided ample opportunity to develop competencies necessary for lifelong learning as well as the competencies needed to maintain good physical and mental health, to participate actively in the governing process and community activities, to protect the environment and conserve public and private resources, and to be an effective worker and responsible citizen of high character;

(2) Providing all children and youth in Georgia with access to a quality program which supports their development of essential competencies in order that they may realize their potential;

(3) Providing an equitable public education finance structure which ensures that every student has an opportunity for a quality basic education, regardless of where the student lives, and ensures that all Georgians pay their fair share of this finance structure;

(4) Establishing and maintaining state-wide standards which ensure that each student has access to a quality program;

(5) Making teaching an attractive and rewarding profession in order to attract, retain, and fully utilize highly competent personnel in all public schools of the state;

(6) Providing effective staff development and attractive incentive programs which will motivate public school personnel to enhance their competencies and perform to their potential throughout their career;

(7) Providing local school systems with the incentives, resources, and technical assistance they need to plan and implement improvements in their programs on a continuing basis;

(8) Providing parents and the general public with information on the quality of schools and the achievement of the public school students in Georgia;

(9) Providing appropriate school facilities in which quality educational programs can be offered, particularly in the small and sparsely populated school systems;

(10) Providing an accountability system to ensure that all students are receiving a quality instructional program so that all students can achieve at their highest level;

(11) Providing a seamless education system to allow for the delivery of educational programs at all levels and the movement of students between programs and education agencies as efficiently and effectively as possible and to provide for coordination on a continuing basis between agencies responsible for education services;

(12) Providing a safe school environment so that students can learn and mature without fear of violence or intimidation;

(13) Providing access to nursing services so that teachers can deliver instructional services without the added responsibility of addressing students' nursing needs and so that students can receive nursing services while at school;

(14) Providing academic intervention programs designed to assist students who are performing below grade level in order to increase their mastery of critical academic knowledge and skills;

(15) Providing an alternative educational environment for those students who need a different educational structure in order to properly master critical academic knowledge and skills and to provide an environment where they can stay in school and acquire the knowledge and skills necessary for a productive life;

(16) Providing students with advice and assistance in planning their academic and work careers and achieving those goals;

(17) Providing an evaluation process for all school system personnel to assure the public that personnel are performing at acceptable levels and providing quality educational services to all students;

(18) Providing an environment where parents and the community can participate in school activities and support school personnel as they work with students and address their academic needs;

(19) Providing for parent and community participation in the establishment of school programs, policies, and management so that the school and community are connected in meaningful and productive ways and providing support for teachers and school leaders in addressing the school's needs; and

(20) Providing a means whereby the foregoing might be met in order to provide an opportunity for a quality basic education to the citizens of the state and to discharge the responsibilities and obligations of the state to ensure a literate and informed society

does establish the Quality Basic Education Program. It is declared to be the policy of this state to assure that each Georgian has access to quality instruction, as defined in this article, designed to improve upon a student's learning capacity. It is further declared that no student shall be refused admission into or be excluded from any public school in the state on account of race, creed, color, or national origin. (Code 1981, § 20-2-131, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 2000, p. 618, § 11; Ga. L. 2015, p. 1376, § 3/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted "highly rigorous curriculum to encompass content standards"

for "quality basic education" near the beginning of paragraph (1).

20-2-132. Primary goals of article.

It is the intent of the General Assembly that the primary goals of this article shall be as follows:

(1) A substantial reduction in the number of teachers who leave the teaching profession for reasons of job dissatisfaction;

(2) A decrease in the percentage and number of students who enter school but drop out prior to graduation;

(3) The elimination of emergency teaching certificates and waivers for teaching outside of specialty;

(4) A decrease in the percentage of students who fail to attain passing scores on end-of-course assessments;

(5) A significant increase in the test scores of Georgia students who take the Scholastic Assessment Test (SAT) or the ACT Assessment (ACT);

(6) An increase in the number of students mastering each skill in reading, mathematics, and other subject areas;

(7) An accountability system for education programs that measures efficiency and effectiveness and ensures that programs produce improvement in student achievement scores for all students;

(8) A comprehensive program and financial information system that provides data that allow for the accurate evaluation of program effectiveness;

(9) A seamless education system that allows students to be served in the most effective and efficient way possible;

(10) The elimination of school violence;

(11) A decrease in the percentage of students who perform below grade level;

(12) An increase in parental and community involvement in schools;

(13) Better coordination between education agencies and other organizations providing instructional and related services to students;

(14) A more competent school work force through the effective use of evaluation tools, training, and school improvement teams that promote best practices; and

(15) More flexibility for high-performing schools so that services can be better adapted to student needs. (Code 1981, § 20-2-132, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 2000, p. 618, § 12; Ga. L. 2015, p. 21, § 2/HB 91.)

The 2015 amendment, effective March 30, 2015, substituted “fail to attain passing scores on end-of-course assessments” for “fail the Georgia High School Graduation Test” in paragraph (4).

20-2-133. Free public instruction; exceptions; eligibility; custody of child; notification of local unit of administration of child’s location; transfer and utilization of records; funding.

(a) Admission to the instructional programs funded under this article shall be free to all eligible children and youth who enroll in such programs within the local school system in which they reside and to children as provided in subsection (b) of this Code section. Therefore, a

local school system shall not charge resident students tuition or fees, nor shall such students be required to provide materials or equipment except for items specified by the State Board of Education, as a condition of enrollment or full participation in any instructional program. However, a local school system is authorized to charge nonresident students tuition or fees or a combination thereof; provided, however, that such charges to a student shall not exceed the average locally financed per student cost for the preceding year, excluding the local five mill share funds required pursuant to Code Section 20-2-164; provided, further, that no child in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities or for which payment is made by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and no child who is in the physical or legal custody of the Department of Juvenile Justice, under the care or physical or legal custody of the Department of Human Services or any of its divisions, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities shall be charged tuition, fees, or a combination thereof. A local school system is further authorized to contract with a nonresident student's system of residence for payment of tuition. The amount of tuition paid directly by the system of residence shall be limited only by the terms of the contract between systems. Local units of administration shall provide textbooks or any other reading materials to each student enrolled in a class which has a course of study that requires the use of such materials by the students.

(b)(1) Any child, except a child in a secure residential facility as defined in Code Section 15-11-2, as specifically provided in this paragraph, who is in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services; in a placement operated by the Department of Human Services or the Department of Behavioral Health and Developmental Disabilities; or in a facility or placement paid for by the Department of Juvenile Justice, the Department of Human Services or any of its divisions, or the Department of Behavioral Health and Developmental Disabilities and who is physically present within the geographical area served by a local unit of administration for any length of time is eligible for enrollment in the educational programs of that local unit of administration; provided, however, that the child meets the age eligibility requirements established by this article. The local unit of administration of the school district in which such child is present shall be responsible for the provision of all educational programs, including special education and related services, at no charge so long as the child is physically present in the school district. A child shall be

considered in the physical or legal custody of the Department of Juvenile Justice or the Department of Human Services or any of its divisions if custody has been awarded either temporarily or permanently by court order or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Human Services. A child shall be considered in a facility or placement paid for or operated by the Department of Behavioral Health and Developmental Disabilities if the child has been admitted or placed according to an individualized treatment or service plan of the Department of Behavioral Health and Developmental Disabilities. No child in a secure residential facility as defined in Code Section 15-11-2, regardless of his or her custody status, shall be eligible for enrollment in the educational programs of the local unit of administration of the school district in which such facility is located. No child or youth in the custody of the Department of Corrections or the Department of Juvenile Justice and confined in a facility as a result of a sentence imposed by a court shall be eligible for enrollment in the educational programs of the local unit of administration of the school district where such child or youth is being held.

(2) Except as otherwise provided in this Code section, placement in a facility by a parent or by another local unit of administration shall not create an obligation, financial or otherwise, on the part of the local unit of administration in which the facility is located to educate the child.

(3) For any child described in paragraph (1) of this subsection, the custodian of or placing agency for the child shall notify the appropriate local unit of administration at least five days in advance of the move, when possible, when the child is to be moved from one local unit of administration to another.

(4) When the custodian of or placing agency for any child notifies a local unit of administration, as provided in paragraph (3) of this subsection, that the child may become eligible for enrollment in the educational programs of a local unit of administration, such local unit of administration shall request the transfer of the educational records and Individualized Education Programs and all education related evaluations, assessments, social histories, and observations of the child from the appropriate local unit of administration no later than ten days after receiving notification. Notwithstanding any other law to the contrary, the custodian of the records has the obligation to transfer these records and the local unit of administration has the right to receive, review, and utilize these records. Notwithstanding any other law to the contrary, upon the request of a local unit of administration responsible for providing educational services to a

child described in paragraph (1) of this subsection, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall furnish to the local unit of administration all medical and educational records in the possession of the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services pertaining to any such child, except where consent of a parent or legal guardian is required in order to authorize the release of any of such records, in which event the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services shall obtain such consent from the parent or guardian prior to such release.

(5) Any local unit of administration which serves a child pursuant to paragraph (1) of this subsection shall receive in the form of annual grants in state funding for that child the difference between the actual state funds received for that child pursuant to Code Section 20-2-161 and the reasonable and necessary expenses incurred in educating that child, calculated pursuant to regulations adopted by the State Board of Education. Each local board of education shall be held harmless by the state from expending local funds for educating students pursuant to this Code section; provided, however, that this shall only apply to students who are unable to leave the facility in which they have been placed.

(6) Enrollment of an eligible child pursuant to this Code section shall be effectuated in accordance with rules and regulations adopted by the State Board of Education.

(7) For purposes of the accountability program provided for in Part 3 of Article 2 of Chapter 14 of this title, all facilities serving children described in paragraph (1) of this subsection shall be, consistent with department rules and regulations, treated as a single local education agency; provided, however, that this paragraph shall not be construed to alleviate any responsibilities of the local unit of administration of the school district in which any such children are physically present for the provision of education for any such children.

(8) The Department of Education, the Department of Human Services, the Department of Juvenile Justice, the Department of Behavioral Health and Developmental Disabilities, and the local units of administration where Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Disabilities, or Department of Human Services placements, facilities, or contract facilities are located shall jointly develop procedures binding on all agencies implementing the provisions of this Code section applicable to children and youth in the physical or legal

custody of the Department of Juvenile Justice, under the care or physical or legal custody of the Department of Human Services, or under the physical custody of the Department of Behavioral Health and Developmental Disabilities. (Code 1981, § 20-2-133, enacted by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 4; Ga. L. 1989, p. 1693, § 1; Ga. L. 1991, p. 1825, § 1; Ga. L. 1992, p. 1983, § 20; Ga. L. 1997, p. 1453, § 1; Ga. L. 1998, p. 1582, § 1; Ga. L. 1999, p. 296, § 24; Ga. L. 2000, p. 618, § 96; Ga. L. 2006, p. 1052, § 1/SB 618; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2010, p. 286, § 15/SB 244; Ga. L. 2013, p. 187, § 1/SB 115; Ga. L. 2013, p. 294, § 4-32/HB 242.)

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in paragraph (b)(1), in the first sentence, substituted “Department of Human Services; in a placement” for “Department of Human Services, or in a placement” and substituted a semicolon for a comma following “Department of Behavioral Health and Developmental Disabilities”, and, in the second sentence, substituted “charge so long” for “charge as long” near the end; in paragraph (b)(4), deleted “(IEP’s)” following “Individualized Education Programs” in the first sentence; added paragraph (b)(7); redesignated former paragraph (b)(7) as present paragraph (b)(8); and, in paragraph (b)(8), substituted “Department of Juvenile Justice, under” for “Department of Juvenile Justice or under” and added a comma following “Department of Human Services” near the end. The second 2013 amendment, effective January 1, 2014, in paragraph (b)(1), in the first sentence, substituted “secure residential facility as defined in Code Section 15-11-2,” for “youth development center” near the beginning, substituted “Department of Human Services;” for “Department of Human Services, or”,

and substituted a semicolon for a comma following “Developmental Disabilities”, in the second sentence, substituted “so long” for “as long”, in the third and fourth sentences, substituted “child shall be” for “child will be”, and, in the next to last sentence, substituted “secure residential facility as defined in Code Section 15-11-2” for “youth development center”, and substituted “such facility” for “that youth development center” near the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

PART 2

COMPETENCIES AND CORE CURRICULUM

20-2-140. State Board of Education to establish uniformly sequenced content standards; college and career readiness competency standards.

(a) The State Board of Education shall establish uniformly sequenced content standards that each student is expected to master

prior to completion of the student's public school education. The state board shall adopt content standards for students in kindergarten through grade 12. Each local unit of administration may expand and enrich the content standards to the extent it deems necessary and appropriate for its students and communities. Each local school system shall adopt its own curriculum which shall include appropriate instruction in the content standards.

(b) The State Board of Education, working with the Board of Regents of the University System of Georgia and the State Board of the Technical College System of Georgia, shall establish college and career readiness standards to demonstrate competency in reading, writing, and mathematics aligned with the content standards adopted by the state board pursuant to subsection (a) of this Code section with the level of performance necessary to meet college-readiness standards in the state's technical colleges, community colleges, state colleges, and universities and in other advanced training programs.

(c) The State Board of the Technical College System of Georgia shall require its institutions to accept core coursework completed by high school students for purposes of admission into its institutions. (Code 1981, § 20-2-140, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 2011, p. 635, § 3/HB 186; Ga. L. 2012, p. 689, § 1/HB 713; Ga. L. 2015, p. 1376, § 4/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted the present provisions of subsection (a) for the former provisions, which read: "The State Board of Education shall establish competencies that each student is expected to master prior to completion of the student's public school education. The state board shall also establish competencies for which each student should be provided opportunities, at the discretion of the student and the student's parents, to master. Based upon these foregoing competencies, the state board shall adopt a uniformly sequenced core curriculum for grades kin-

dergarten through 12. Each local unit of administration shall include this uniformly sequenced core curriculum as the basis for its own curriculum, although each local unit may sequence, expand, and enrich this curriculum to the extent it deems necessary and appropriate for its students and communities."; and substituted "standards to demonstrate competency in reading, writing, and mathematics aligned with the core content standards" for "competency standards in reading, writing, and mathematics aligned with the core curriculum" near the middle of subsection (b).

20-2-140.1. Online learning.

The State Board of Education shall establish rules and regulations to maximize the number of students, beginning with students entering ninth grade in the 2014-2015 school year, who complete prior to graduation at least one course containing online learning. This shall be met through an online course offered by the Georgia Virtual School established pursuant to Code Section 20-2-319.1, through the clearing-house established pursuant to Code Section 20-2-319.3,

through an online dual enrollment course offered by a postsecondary institution, or through a provider pursuant to Code Section 20-2-319.4. This shall also include enrollment in a full-time or part-time virtual instruction program pursuant to Code Section 20-2-319.4. (Code 1981, § 20-2-140.1, enacted by Ga. L. 2012, p. 893, § 1/SB 289; Ga. L. 2015, p. 1376, § 5/HB 502.)

The 2015 amendment, effective July 1, 2015, in the second sentence, inserted “through the clearing-house established pursuant to Code Section 20-2-319.3,” and

substituted “pursuant to Code Section 20-2-319.4” for “approved pursuant to subsection (c) of Code Section 20-2-319.4”.

20-2-142. Prescribed courses.

(a)(1) All elementary and secondary schools which receive in any manner funds from the state shall provide the following course offerings in the manner and at the grade level prescribed by the State Board of Education:

(A) A course of study in the background, history, and development of the federal and state governments and a study of Georgia county and municipal governments; and

(B) A course of study in the history of the United States and in the history of Georgia and in the essentials of the United States and Georgia Constitutions, including the study of American institutions and ideals which shall include a study of the Pledge of Allegiance to the flag of the United States and the Georgia flag in addition to other institutions and ideals.

(2) No student shall be eligible to receive a diploma from a high school unless such student has successfully completed the courses in history and government provided for by this subsection, except as provided in paragraphs (3) and (4) of this subsection. For students moving to Georgia and unable to take the course or courses available to fulfill these requirements in the grade level in which such course or courses are ordinarily offered, the State Board of Education may develop alternative methods, which may include but shall not be limited to an on-line course of study, for such students to learn about and demonstrate an adequate understanding of federal or Georgia history and government.

(3) Disabled students who are otherwise eligible for a special education diploma pursuant to subsection (c) of Code Section 20-2-281 shall not be denied this diploma if they have not successfully completed either or both of these courses; provided, however, that their Individualized Education Programs have not specified that the disabled students must enroll in and successfully complete both of these courses.

(4) The State Board of Education shall promulgate rules and regulations governing the required course of study in the history of Georgia and in the essentials of the Georgia Constitution for students who transfer from another state after having completed the year in which such course or courses are ordinarily offered. The State Board of Education is authorized to provide for exemptions to the required course of study for such students and for students whose parent or parents serve in the armed forces of the United States.

(b)(1) The State Board of Education and the Board of Driver Services shall jointly establish an alcohol and drug course for the purpose of informing the young people of this state of the dangers involved in consuming alcohol or certain drugs in connection with the operation of a motor vehicle. The course shall be designed to generate greater interest in highway safety and accident prevention. The state board and the Board of Driver Services shall jointly, by rules or regulations, determine the contents of the course and its duration. The commissioner of driver services shall make available officers, employees, officials, agents, contractors, or other appropriate representatives as determined by the commissioner of driver services to teach the alcohol and drug course. The alcohol and drug course shall be offered periodically but not less than once annually in the public schools of this state to students in grades nine and above in the manner prescribed by the state board.

(2) The alcohol and drug course required by this subsection shall make available as a part of such course a voluntary parent or guardian participation component which substantially complies with the following requirements:

(A) A joint session with the parent or guardian and child which provides opportunities for parents or guardians to voluntarily participate in the guidance and delivery of the antidrug and antialcohol instruction; and

(B) A separate voluntary component solely for parental or guardian instruction that provides drug prevention strategies, legal accountability information, an opportunity for parent or guardian questions, and any other information that would offer parents or guardians a framework for the protection of their children from alcohol and other drug use.

(3) All schools with grade nine or above which receive funds in any manner from the state shall make available to eligible students and their parents or guardians the alcohol and drug course provided in this subsection.

(4) The commissioner of driver services shall make the alcohol and drug course, and instructors where necessary, available to the private

schools in this state. In addition, the commissioner of driver services shall offer the alcohol and drug course periodically at various locations in this state in the manner provided by the Board of Driver Services. The commissioner shall also be authorized to offer such course electronically online or in such other manner as determined appropriate by the commissioner.

(c) The State Board of Education shall prescribe a course of study in health and physical education for all grades and grade levels in the public schools and shall establish minimum time requirements and standards for its administration. The course shall include instruction concerning the impact of alcohol, tobacco, and drug use upon health. A manual setting out the details of such courses of study shall be prepared or approved by the State School Superintendent in cooperation with the Department of Public Health, the state board, and such expert advisers as they may choose. The Department of Education is directed to assemble or develop instructional resources and materials concerning alcohol and drug abuse, taking into consideration technological enhancements available for utilization of such instructional resources.

(d) The funds allocated under Code Section 20-2-13 shall be used for the purpose of creating and maintaining state educational research services for purposes which shall include, but shall not be limited to, the following:

(1) For the development, production, and procurement of curriculum materials and units of instruction on the scientific facts in regard to the influence and effect of alcohol on human health and behavior and on social and economic conditions, including suggested methods of instruction in ways of working with boys and girls and young people in the various age groups and grade levels of the public schools of the state, as aids to classroom teachers and others responsible for the conduct of the educational program in the public schools;

(2) For the publication, procurement, and dissemination of curriculum materials, units of instruction, and suggested methods of instruction relating to the influence and effect of alcohol on human health and behavior and on social and economic conditions for the school teachers and educational officials in the various local school systems of the state, the Department of Education, and the various educational institutions of the state which are engaged in the education and training of teachers; and

(3) For cooperative work, by and between the state educational research service and the local school systems of the state, the Department of Education, and the educational institutions of the state which are engaged in the education and training of teachers,

through conferences, study groups, demonstrations of methods and materials of instruction, and other means.

(e) The state board is authorized to expend such amounts as may be necessary of the moneys allocated to it under Code Section 20-2-13 for the employment of a specialist or specialists or for contracting for the services of specialists in research and in development and production of curriculum materials and units of instruction on the scientific facts in regard to the influence of alcohol on human health and behavior and on social and economic conditions, including methods of instruction; for the employment of secretarial and clerical assistants and other office expenses; for expenses of conferences, study groups, and demonstrations; and for all other expenses necessary in carrying out the purposes of this Code section.

(f) The state board shall make available uniformly to the public schools of the state and the educational institutions of the state engaged in the education and training of teachers the curriculum materials, the units of instruction, and the suggested methods of instruction which are developed under this Code section. (Code 1981, § 20-2-142, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 1972, § 2; Ga. L. 1992, p. 6, § 20; Ga. L. 1996, p. 6, § 20; Ga. L. 1996, p. 1600, § 1; Ga. L. 2000, p. 618, § 13; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 107, § 2; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 334, § 9-1/HB 501; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2010, p. 413, § 1/SB 518; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2012, p. 72, § 1/SB 236; Ga. L. 2015, p. 1376, § 6/HB 502.)

The 2015 amendment, effective July 1, 2015, deleted “in its quality core curriculum” following “State Board of Education” at the end of paragraph (a)(1).

20-2-142.1. Coursework in the founding philosophy and principles of the United States of America.

(a) The General Assembly finds that the survival of the Republic requires that the nation’s children, who are the future guardians of its heritage and participants in its governance, have a clear understanding of the founding philosophy and the founding principles of our government, which are found in the Declaration of Independence, the United States Constitution, the Federalist Papers, and the writings of the founders, and an understanding of the preservation of such founding philosophy, principles, and documents.

(b) This Code section shall be known and may be cited as the “America’s Founding Philosophy and Principles Act.”

(c) Each local board of education may require all students, as a condition of graduation, during their ninth through twelfth grade years

to complete and pass a separate semester course covering the following founding philosophy and principles of the United States of America:

(1) America's founding philosophy, to include at least the following:

(A) As articulated in the Declaration of Independence the foundational idea of the Creator-endowed unalienable rights of the people;

(B) The purpose of limited government, which is to protect the unalienable rights of the people and to protect the people from violence and fraud;

(C) The structure of government, separation of powers, and checks and balances; and

(D) The rule of law, with frequent and free elections in a representative government which governs by majority vote within a constitutional framework;

(2) America's founding principles, to include at least the following:

(A) Federalism-government as close to the people as possible, limited federal government, and strong state and local government;

(B) Freedoms of speech, press, religion, and peaceful assembly guaranteed by the Bill of Rights;

(C) Rights to private property and freedom of individual enterprise;

(D) The innocence of any crime until proven guilty, with right of habeas corpus, and no unreasonable searches, seizures, or cruel and unusual punishment;

(E) A virtuous and moral people educated in the philosophy and principles of government for a free people;

(F) The right to a speedy trial by a jury of peers;

(G) The principles of economy in spending, constitutional limitations on government power to tax and spend, and prompt payment of public debt;

(H) Economic system of money with intrinsic value;

(I) Equality before the law and due process of law with grand jury indictment for capital crimes before holding a person to account;

(J) The right of people to keep and bear arms, strong defense capability, supremacy of civil authority over military;

(K) Peace, commerce, and honest friendship with all nations, entangling alliances with none;

(L) All laws concise and understandable by the people and not ex post facto laws;

(M) Eternal vigilance by “We the People”; and

(N) Founding documents including Declaration of Independence, the United States Constitution, and the Federalist Papers; and

(3) Transformational movements in American history, to include at least the following:

(A) The antislavery movement;

(B) The Civil Rights movement;

(C) Women’s suffrage;

(D) The contributions of immigrants to American society; and

(E) The history of the Native American population.

(d) The Department of Education and local boards of education, as appropriate, may provide, or cause to be provided, curriculum content which reflects the content standards addressed pursuant to subsection (c) of this Code section and teacher training to ensure that the intent and provisions of this Code section are implemented.

(e) This Code section shall apply beginning in school year 2017-2018. (Code 1981, § 20-2-142.1, enacted by Ga. L. 2015, p. 1376, § 6A/HB 502.)

Effective date. — This Code section became effective July 1, 2015.

20-2-149.1. Instruction in cardiopulmonary resuscitation and use of automated external defibrillator; requirements.

(a) As used in this Code section, the term “psychomotor skills” means skills using hands-on practice to support cognitive learning.

(b) Beginning in the 2013-2014 school year, each local board of education which operates a school with grades nine through 12 shall provide instruction in cardiopulmonary resuscitation and the use of an automated external defibrillator to its students as a requirement within existing health or physical education courses. Such training shall include either of the following and shall incorporate into the instruction the psychomotor skills necessary to perform cardiopulmonary resuscitation and use an automated external defibrillator:

(1) An instructional program developed by the American Heart Association or the American Red Cross; or

(2) An instructional program which is nationally recognized and is based on the most current national evidence based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator.

(c) A teacher shall not be required to be a certified trainer of cardiopulmonary resuscitation or to facilitate, provide, or oversee instruction which does not result in certification in cardiopulmonary resuscitation and the use of an automated external defibrillator.

(d) This Code section shall not be construed to require students to become certified in cardiopulmonary resuscitation and the use of an automated external defibrillator; provided, however, that if a local board of education chooses to offer courses which result in certification being earned, such courses shall be taught by instructors in cardiopulmonary resuscitation and the use of an automated external defibrillator authorized to conduct an instructional program included in paragraph (1) or (2) of subsection (b) of this Code section.

(e) The Department of Education shall establish a procedure to monitor adherence by local boards of education. (Code 1981, § 20-2-149.1, enacted by Ga. L. 2013, p. 521, § 1/SB 212.)

Effective date. — This Code section became effective July 1, 2013.

20-2-149.2. Awarding of high school diploma for completion of postsecondary programs; identification of critical needs fields of study.

(a) A local board of education may award a high school diploma to a student enrolled in coursework pursuant to Code Section 20-2-159.5 who:

(1) Completes rigorous coursework at a postsecondary institution which meets the requirements in paragraph (7) of Code Section 20-3-519;

(2) Has completed at least the following state required ninth and tenth grade level high school courses: two English courses, two mathematics courses, two science courses, two social studies courses, and one health and physical education course; and any state required tests associated with any such courses;

(3) Receives a score of admission acceptable on the readiness assessment required by the postsecondary institution; and

(4) Completes: (i) an associate degree program; (ii) a technical college diploma program and all postsecondary academic education and technical education and training prerequisites for any state,

national, or industry occupational certifications or licenses required to work in the field; or (iii) at least two technical college certificate of credit programs in one specific career pathway and all postsecondary academic education and technical education and training prerequisites for any state, national, or industry occupational certifications or licenses required to work in the field as determined by the Technical College System of Georgia.

(b) The State Board of the Technical College System of Georgia shall annually identify fields of study in which a critical need or shortage of trained personnel exists in the labor markets in this state and provide such information to the State Board of Education. The State Board of Education shall annually provide such information to local school systems for the purpose of emphasizing areas of critical workforce needs and shortages in the labor markets in our state to high school students to support their career pathway decisions.

(c) The State Board of Education, in consultation with the State Board of the Technical College System of Georgia and the Board of Regents of the University System of Georgia, shall establish rules and regulations to implement the provisions of this Code section.

(d) A student who meets the requirements of subsection (a) of this Code section shall be deemed to have met all graduation requirements of the State Board of Education and shall not be subject to any assessments otherwise required for purposes of graduation. (Code 1981, § 20-2-149.2, enacted by Ga. L. 2015, p. 118, § 1/SB 2.)

Effective date. — This Code section became effective July 1, 2015.

PART 3

EDUCATIONAL PROGRAMS

20-2-151. General and career education programs; purpose; authorized programs.

(a) The primary purpose for the general and career education programs is to provide the children and youth of Georgia with a quality opportunity to master uniformly sequenced content standards adopted by the State Board of Education.

(b) The following general and career education programs are authorized for purposes of funding under this article:

(1)(A) All local school systems may offer a full-day kindergarten program. For purposes of this subsection, the term “full-day kindergarten program” means a student is provided classroom instruction for a minimum of four and one-half hours daily for a 180 day

school year, or the equivalent thereof as determined in accordance with State Board of Education guidelines.

(B) It is the policy of this state that the purposes of the kindergarten program shall be to provide all children with an equal opportunity to become prepared for a successful first grade experience and to acquire the foundation for academic progress throughout the students' educational careers. To be eligible for enrollment in a state supported kindergarten program, a child must attain the age of five by September 1, except as otherwise provided by subsection (b) of Code Section 20-2-150;

(2) It is the policy of this state that the purpose of the primary grades program shall be mastery by enrolled students of the essential basic skills and knowledge which will enable them to achieve more advanced skills and knowledge offered at the higher grade levels. For purposes of funding under this article, the primary grades program shall include grades one, two, and three. To be eligible for enrollment in the first grade of a state supported primary grades program, a child must attain the age of six by September 1, except as otherwise provided by subsection (b) of Code Section 20-2-150. The State Board of Education shall adopt an instrument or instruments, procedures, and policies necessary to assess the first grade readiness of children enrolled in Georgia's public school kindergarten programs pursuant to Code Section 20-2-281. Readiness information obtained by the instrument or instruments adopted by the state board shall be used by local school systems in concert with teacher recommendations and other relevant information to make appropriate student grade placement decisions. The Department of Education shall develop guidelines for utilization of the instrument or instruments in grade placement decisions and shall provide such guidelines to local school systems. The guidelines shall include information pertinent to consideration of the placement of students who have been identified as being disabled or limited-English-proficient. Whenever the decision is made not to promote a child to the first grade, the local school system shall document the reasons for the decision not to promote, according to guidelines established by the board. The State School Superintendent may annually provide a report summarizing the results of the readiness of first grade Georgia public school kindergarten children. No student shall remain in kindergarten for more than two years;

(3) It is the policy of this state that the primary purposes of the middle grades program shall be assuring the mastery of essential basic skills and knowledge, assisting students in the transition from childhood to adolescence, and preparing students for the selection of programs and courses consistent with their abilities and interests

when they enter high school, as well as providing an opportunity for mastery of essential but more advanced skills and knowledge. For purposes of funding under this article, the middle grades program shall include grades four, five, six, seven, and eight; and

(4)(A) It is the policy of this state that the primary purposes of the high school programs shall be to prepare students for the continuation of their education beyond high school and for entry into their chosen career fields as well as to prepare them to take their places in society as young adults. The following high school programs for grades nine, ten, 11, and 12 are authorized for purposes of funding under this article:

- (i) The high school education program; and
- (ii) The career, technical, and agricultural education laboratory program.

(B) As a reflection of the reduced teacher-student ratios and more extensive material and equipment needed for effective laboratory courses compared to courses with no or only limited laboratory experiences, the career, technical, and agricultural education laboratory program shall be funded at a higher level than the high school general education program. The state board shall adopt criteria which courses must meet in order to qualify for the career, technical, and agricultural education laboratory program. (Code 1981, § 20-2-151, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 1359, § 1; Ga. L. 1995, p. 1302, § 14; Ga. L. 2000, p. 618, § 14; Ga. L. 2001, p. 4, § 20; Ga. L. 2009, p. 638, § 1/HB 193; Ga. L. 2013, p. 1061, § 6/HB 283; Ga. L. 2015, p. 1376, § 7/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in division (b)(4)(A)(ii) and in the first and second sentences of subparagraph (b)(4)(B).

The 2015 amendment, effective July 1, 2015, substituted “uniformly sequenced content standards adopted by the State

Board of Education” for “student competencies adopted by the State Board of Education through instruction which is based upon the uniformly sequenced core curriculum” at the end of subsection (a); and substituted “may” for “shall” near the end of the next to the last sentence of paragraph (b)(2).

20-2-154.1. Alternative education programs; intent; description; funding.

(a) It is the policy of this state that the alternative education program shall provide a learning environment that includes the objectives of the content standards and that the instruction in an alternative education program shall enable students to return to a general or career education program as quickly as possible. Course credit shall be

earned in an alternative education program in the same manner as in other education programs. It is the policy of this state that it is preferable to reassign disruptive students to an alternative education program rather than suspending or expelling such students from school.

(b) Alternative education programs are intended to meet the education needs of a student who is suspended from his or her regular classroom and also of a student who is eligible to remain in his or her regular classroom but is more likely to succeed in a nontraditional setting such as that provided in an alternative education program.

(c) As part of the process of assigning a student to an alternative education program for academic or nondisciplinary reasons, the school shall assess, through policies and procedures promulgated by the local board of education, the needs of the student and consider options for addressing those needs.

(d) Each local school system shall provide an alternative education program that:

(1) Is provided in a setting other than a student's regular classroom;

(2) Is located on or off of a regular school campus and may include in-school suspension that provides continued progress on regular classroom assignments;

(3) Provides for disruptive students who are assigned to the alternative education program to be separated from nondisruptive students who are assigned to the program;

(4) Focuses on English language arts, mathematics, science, social studies, and self-discipline;

(5) Provides for students' educational and behavioral needs; and

(6) Provides supervision and counseling.

(e) An alternative education program may provide for a student's transfer to a different campus, a school-community guidance center, or a community based alternative school.

(f) A local school system may provide an alternative education program jointly with one or more other systems.

(g) Each local school system shall cooperate with government agencies and community organizations that provide services in the school district to students placed in an alternative education program.

(h) The amount of state funds appropriated and allocated for the alternative education program provided for in this Code section shall be

based on the actual count of students served during the preceding year, except that the count of students served shall not exceed 2.5 percent of the sum of the full-time equivalent program count of the middle school program, the high school general education program (grades nine through 12), and the career, technical, and agricultural education laboratory program (grades nine through 12). Funds earned may be expended in kindergarten and in grades one through 12.

(i) A local school system shall allocate to an alternative education program the same expenditure for each student attending the alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program, except as otherwise provided in this Code section.

(j) Upon the request of a local school system, a regional educational service agency may provide to the system information on developing an alternative education program that takes into consideration the system's size, wealth, and existing facilities in determining the program best suited to the system.

(k) If a student placed in an alternative education program enrolls in another local school system before the expiration of the period of placement, the local board of education requiring the placement shall provide to the local school system in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The local school system in which the student enrolls may continue the alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement.

(l) The State Board of Education shall adopt rules necessary to administer the provisions of this Code section. Academically, the mission of alternative education programs shall be to enable students to perform at grade level. Annually, the Office of Student Achievement shall define for alternative education programs acceptable performance and performance indicating a need for peer review, based principally on standards defined by the Office of Student Achievement that measure the academic progress of students toward performing at grade level while attending an alternative education program. (Code 1981, § 20-2-154.1, enacted by Ga. L. 2000, p. 618, § 17; Ga. L. 2001, p. 148, § 3; Ga. L. 2004, p. 107, § 22; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1061, § 7/HB 283; Ga. L. 2015, p. 1376, § 8/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted "career, technical, and agricultural education" for "vocational" in the first and second sentences of subsection (h).

The 2015 amendment, effective July 1, 2015, substituted "content standards" for "quality core curriculum" near the beginning of subsection (a); and rewrote subsection (h).

20-2-157. Uniform reporting system for certain purposes; dual credit courses; academic eligibility requirements to receive HOPE scholarship.

(a) It is the intent of the General Assembly to establish a uniform reporting system to be used as one of the criteria to determine eligibility of students seeking educational scholarships, grants, or loan assistance administered by the Georgia Student Finance Commission pursuant to Article 7 of Chapter 3 of this title.

(a.1) As used in this Code section, the term “dual credit course” shall have the same meaning as in Code Section 20-2-161.3.

(b) Each school system and private school shall adopt the reporting system described in this subsection for purposes of identifying and qualifying graduating seniors for the HOPE scholarship program and other programs identified in this Code section:

(1) Each school system and private school shall transmit, in a manner and at times prescribed by the Georgia Student Finance Commission, an electronic transcript of courses and course grades for each graduating senior that reflects the complete high school academic record of the student, including scores on any state tests required for graduation, the grading scales used by the school system or private school for the time periods referenced by the transcripts, and any other pertinent information as determined by the Georgia Student Finance Commission. Each grade reported by a school system or private school to the commission for the purpose of calculating the grade point average for HOPE scholarship eligibility shall be the actual grade earned by the student, with no weighting or addition of points by the local school system or private school;

(2) The Georgia Student Finance Commission shall calculate a grade point average for the purpose of determining eligibility for the HOPE scholarship from these electronic transcripts and shall notify students of their eligibility and high schools as to the eligibility of students;

(3) For students otherwise qualified and enrolling as freshmen students in eligible public or private postsecondary institutions for the first time on May 1, 2007, or thereafter, except as otherwise provided in paragraph (3.1) of this subsection, the Georgia Student Finance Commission shall calculate grade point averages for determining eligibility for the HOPE scholarship and other scholarships referenced in this Code section as follows:

(A) For students receiving a college preparatory diploma, each grade for a student in attempted coursework in English, mathematics, science, social studies, and foreign language that would, if

successfully completed, satisfy a core graduation requirement for the college preparatory curriculum shall be equated to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0; or

(B) For students receiving a career/technical diploma, each grade for a student in attempted coursework in English, mathematics, science, and social studies that would, if successfully completed, satisfy a core graduation requirement for the career/technical curriculum shall be equated to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0.

Grades for coursework that is classified as advanced placement, a dual credit course, or international baccalaureate shall be weighted uniformly by the Georgia Student Finance Commission in calculating the overall grade point averages for students, provided that the weighting of such course grades is uniformly applied to all students in this state taking the specified coursework. The sum of the equated grades shall be divided by the number of course grades, adjusted for term length, to yield a grade point average on a 4.0 scale;

(3.1) For students otherwise qualified and enrolling in the ninth grade for the first time during the 2008-2009 school year and thereafter, the Georgia Student Finance Commission shall calculate grade point averages for determining eligibility for the HOPE scholarship and other scholarships referenced in this Code section by equating each grade for a student in attempted coursework in English, mathematics, science, social studies, and foreign language during the student's ninth, tenth, eleventh, or twelfth grade year to a grade on a 4.0 scale, such that a grade of "A" = 4.0, a grade of "B" = 3.0, a grade of "C" = 2.0, a grade of "D" = 1.0, and a grade of "F" = 0. Grades for coursework that is classified as advanced placement, a dual credit course, or international baccalaureate shall be weighted uniformly by the Georgia Student Finance Commission in calculating the overall grade point averages for students, provided that the weighting of such course grades is uniformly applied to all students in this state taking the specified coursework. The sum of the equated grades shall be divided by the number of course grades, adjusted for term length, to yield a grade point average on a 4.0 scale; and

(4) Qualification for the HOPE scholarship shall be determined from the grade point average calculated either as set out in paragraph (3) of this subsection or as set out in paragraph (3.1) of this subsection for students enrolling in the ninth grade for the first time in a Georgia public school during the 2008-2009 school year and thereafter. Beginning May 1, 2007, students with grade point averages equal to or in excess of 3.0 on the 4.0 scale with a college

preparatory diploma shall meet achievement standards for the HOPE scholarship; students receiving a career/technical diploma shall meet achievement standards for the HOPE scholarship with a grade point average equal to or in excess of 3.2 on a 4.0 scale. For students enrolling in the ninth grade for the first time in a Georgia public school during the 2008-2009 school year and thereafter, such students with grade point averages equal to or in excess of 3.0 on a 4.0 scale shall meet achievement standards for the HOPE scholarship. This paragraph shall apply regardless of when a student graduated from high school and regardless of such student's eligibility status prior to May 1, 2007.

(c)(1) Beginning with the school year beginning after May 1, 2011, each school system and private school shall adopt the reporting system described in this subsection for purposes of determining potential eligibility for freshman, sophomore, and junior high school students for the HOPE scholarship program and other programs identified in this Code section.

(2) Each school system and private school shall transmit to the Georgia Student Finance Commission, in such manner and at such times as the commission may prescribe, an electronic transcript of courses and course grades for each freshman, sophomore, and junior high school student that reflects the complete high school academic record of the student, including scores on any state tests required for graduation, the grading scales used by the school system or private school for the time periods referenced by the transcripts, and any other pertinent information as determined by the Georgia Student Finance Commission. Each grade reported by a school system or private school to the commission for the purpose of calculating the grade point average for potential HOPE scholarship eligibility shall be the actual grade earned by the student with no weighting or addition of points by the school system or private school.

(3) The Georgia Student Finance Commission shall calculate a grade point average for the purpose of determining eligibility for the HOPE scholarship from these electronic transcripts and shall notify students of their potential eligibility and high schools as to the potential eligibility of students.

(d) Beginning with students graduating from high school on or after May 1, 2015, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least two courses prior to graduating from high school from the following categories:

(1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;

(2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;

- (3) Advanced placement courses in core subjects;
- (3.1) Dual credit courses in core subjects;
- (4) International baccalaureate courses in core subjects;
- (5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or
- (6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(e) Beginning with students graduating from high school on or after May 1, 2016, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least three courses prior to graduating from high school from the following categories:

- (1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;
- (2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;
- (3) Advanced placement courses in core subjects;
- (3.1) Dual credit courses in core subjects;
- (4) International baccalaureate courses in core subjects;
- (5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or
- (6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(f) Beginning with students graduating from high school on or after May 1, 2017, in order to be eligible to receive a HOPE scholarship, a student shall receive credit in at least four courses prior to graduating from high school from the following categories:

- (1) Advanced math, such as Advanced Algebra and Trigonometry, Math III, or an equivalent or higher course;
- (2) Advanced science, such as Chemistry, Physics, Biology II, or an equivalent or higher course;

- (3) Advanced placement courses in core subjects;
- (3.1) Dual credit courses in core subjects;
- (4) International baccalaureate courses in core subjects;
- (5) Courses taken at a unit of the University System of Georgia in core subjects where such courses are not remedial and developmental courses, as defined in Code Section 20-3-519; or
- (6) Advanced foreign language courses.

Students may take one or more courses in each category; provided, however, that a course may only be counted one time. The Georgia Student Finance Commission shall be authorized to promulgate rules and regulations necessary to carry out the intent of this subsection.

(g) At the conclusion of each school year, the local school system shall provide to each freshman, sophomore, and junior student or to his or her parent or guardian the grade point average calculated by the Georgia Student Finance Commission in accordance with the provisions of this Code section for determining HOPE eligibility. (Code 1981, § 20-2-157, enacted by Ga. L. 1994, p. 1057, § 1; Ga. L. 1998, p. 626, § 1; Ga. L. 2004, p. 922, § 1; Ga. L. 2009, p. 115, § 1/HB 313; Ga. L. 2010, p. 397, § 1/SB 340; Ga. L. 2011, p. 1, § 13/HB 326; Ga. L. 2011, p. 635, § 4/HB 186; Ga. L. 2013, p. 85, § 1/HB 131; Ga. L. 2014, p. 164, § 3A/HB 405; Ga. L. 2015, p. 120, § 2/SB 132.)

The 2013 amendment, effective July 1, 2013, added subsection (a.1); in the first sentence of the undesignated paragraph at the end of paragraph (b)(3) and in paragraph (b)(3.1), inserted “, a dual credit course,” and inserted “uniformly” before “weighted”, and substituted “this state” for “the state” near the end; added paragraphs (d)(3.1), (e)(3.1) and (f)(3.1);

and substituted “courses in core subjects” for “in core courses” in paragraphs (e)(4) and (f)(4).

The 2014 amendment, effective July 1, 2014, added subsection (g).

The 2015 amendment, effective July 1, 2015, substituted “Code Section 20-2-161.3” for “Code Section 20-2-159.5” at the end of subsection (a.1).

20-2-159.1. Focused programs of study.

No later than July 1, 2013, the Department of Education shall develop, and the State Board of Education shall approve, state models and content standards for the following focused programs of study, as defined in Code Section 20-2-326, including, but not limited to:

- (1) Agriculture, food, and natural resources;
- (2) Architecture and construction;
- (3) Arts, audio-video technology, and communications;
- (4) Business, management, and administration;
- (5) Education and training;

- (6) Finance;
- (7) Health science;
- (8) Hospitality and tourism;
- (9) Human services;
- (10) Information technology;
- (11) Law, public safety, and security;
- (12) Manufacturing;
- (13) Government and public administration;
- (14) Marketing, sales, and service;
- (15) Science, technology, engineering, and mathematics; and
- (16) Transportation, distribution, and logistics.

Such focused programs of study may be combined around these and other related clusters. (Code 1981, § 20-2-159.1, enacted by Ga. L. 2011, p. 635, § 5/HB 186; Ga. L. 2012, p. 689, § 3/HB 713; Ga. L. 2015, p. 1376, § 9/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “curriculum framework” in the introductory paragraph.

20-2-159.2. Coordination between high schools and postsecondary institutions to minimize the need for remedial course work for students in postsecondary institutions.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging postsecondary endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for students, families, and the state. To this end, the State Board of Education, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia shall:

(1) Develop policies to ensure that students who master the content standards established pursuant to Code Section 20-2-140 will meet the requirements for purposes of admission into a postsecondary institution, such as grade point average and readiness levels in reading, writing, and mathematics, without having to take remedial coursework. Such policies shall:

(A) Establish the benchmarks for college readiness and the method in which students can demonstrate readiness in reading, writing, and mathematics for postsecondary coursework upon completing the content standards; and

(B) Set the conditions for ensuring college readiness;

(2) Define college-readiness standards in reading, writing, and mathematics needed for success in advanced training, certificate programs, and programs leading to an associate's or bachelor's degree;

(3) Identify one or more state-wide common assessments to determine postsecondary readiness in reading, writing, and mathematics and inform students of their performance on such assessments no later than the end of tenth grade;

(4) Develop transitional courses in reading, writing, and mathematics, with common standards, syllabus, and instruction materials for eleventh and twelfth grade students who fail to meet readiness standards, which courses shall be required by the state board to be offered by all local boards of education and which all students who are identified pursuant to paragraph (3) of this subsection as failing to meet readiness standards shall be required to take;

(5) Establish a state-wide process for determining how successful completion of transitional courses will guarantee that students will meet readiness standards; and

(6) Ensure dual credit courses reflect postsecondary coursework. (Code 1981, § 20-2-159.2, enacted by Ga. L. 2011, p. 635, § 5/HB 186; Ga. L. 2012, p. 689, § 4/HB 713; Ga. L. 2015, p. 1376, § 10/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “master the content standards” for “complete the core curriculum” near the beginning of paragraph (1);

and substituted “content standards” for “core curriculum” at the end of subparagraph (1)(A).

20-2-159.3. Academic core standards to be embedded in career, technical, and agricultural education courses.

(a) The content standards established for career, technical, and agricultural education courses pursuant to Code Section 20-2-140 shall include embedded standards in academic core subject areas, as appropriate. In establishing such content standards, the state board shall work to ensure that the coursework meets postsecondary requirements for acceptance of credit for such coursework at the postsecondary level. Such courses shall be taught by a highly qualified teacher in the academic content and trained or experienced in contextualized learning using project based methods; by a highly qualified career, technical, and agricultural education teacher who has completed a state-approved training program to strengthen academic content and has passed a state-approved exam for demonstrating mastery of academic content; or by a team made up of a highly qualified teacher in the academic

content and a highly qualified career, technical, and agricultural education teacher working together to teach the course.

(b) Local school systems and individual charter schools may develop and implement career, technical, and agricultural courses with embedded standards in academic core subjects areas, including, but not limited to, English, language arts, science, social studies, and mathematics.

(c) For an academic core subject area for which an end-of-course assessment has been adopted pursuant to Code Section 20-2-281, students shall be given the opportunity to take such end-of-course assessment upon completion of the career, technical, and agricultural education course that includes embedded standards in such academic core subject area, unless such student has already passed such end-of-course assessment.

(d) Students who successfully complete a course in career, technical, and agricultural education that includes embedded standards in academic core subject areas, as adopted or approved by the state board, shall receive course credit for both the career, technical, and agricultural education course as well as for the academic core coursework embedded in such course.

(e) The guidelines shall limit the number of academic credits earned through career, technical, and agricultural education courses for any student to three credits and shall ensure acceptance of such credits for purposes of admission into a postsecondary institution. Further, such a credit shall count only once toward high school diploma requirements unless the course requires expanded time to cover the academic and career, technical, and agricultural education content found in both the academic and the career, technical, and agricultural education course. (Code 1981, § 20-2-159.3, enacted by Ga. L. 2011, p. 635, § 5/HB 186; Ga. L. 2015, p. 1376, § 11/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “competencies and curricula” twice in subsection (a).

20-2-159.5. Dual credit courses; requirements.

Repealed by Ga. L. 2015, p. 120, § 3/SB 132, effective July 1, 2015.

Editor’s notes. — This Code section was based on Code 1981, § 20-2-159.5, enacted by Ga. L. 2011, p. 635, § 5/HB 186; Ga. L. 2014, p. 341, § 3/HB 766. For present comparable provisions, see Code Section 20-2-161.3.

PART 4

FINANCING

20-2-160. Determination of enrollment by institutional program; determination of funds to be appropriated.

(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized career, technical, and agricultural education laboratory program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; or any other course or activity so designated by the state board. For the purpose of this Code section, the term "enrichment course" means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more content standards as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in a dual credit course pursuant to Code Section 20-2-161.3 shall be counted for the high school program or other appropriate program for each segment in which the student is attending such dual credit course. The state board shall adopt such regulations and criteria as necessary to ensure objective and true counts of students in state approved instructional programs. The state board shall also establish criteria by which students shall be counted as resident or nonresident students, including specific circumstances

which may include, but not be limited to, students attending another local school system under court order or under the terms of a contract between two local school systems. If a local school system has a justifiable reason, it may seek authority from the state board to shift full-time equivalent program counts from the designated date to a requested alternate date.

(b) The full-time equivalent (FTE) program count for each local school system shall be obtained in the following manner:

(1) Count the number of one-sixth segments of the school day for which each student is enrolled in each program authorized under Code Section 20-2-161; and

(2) Divide the total number of segments counted for each program by six. The result is the full-time equivalent program count for each respective state recognized program.

(c) For the purpose of initially determining the amount of funds to be appropriated to finance each respective program for the ensuing fiscal year, a projection of the second full-time equivalent program count shall be calculated as follows:

(1) Divide the first total full-time equivalent count for the current fiscal year by the first total full-time equivalent count for the immediately preceding fiscal year;

(2) Multiply the quotient obtained in paragraph (1) of this subsection by the second total full-time equivalent count for the immediately preceding fiscal year. The result shall be the projected second total full-time equivalent count for the current fiscal year;

(3) Divide the average of the local school system's two most recent full-time equivalent program counts by the average of the two most recent total full-time equivalent counts; and

(4) Multiply the quotient obtained in paragraph (3) of this subsection by the product obtained in paragraph (2) of this subsection. The result shall be the projected second full-time equivalent program count for the current fiscal year.

(d) The average of the first full-time equivalent program count, weighted two parts, and the projected second full-time equivalent program count, weighted one part, shall be used to initially determine the funds needed to finance the program for the ensuing fiscal year.

(e) For purposes of calculating allotments for a new or revised instructional program for which the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do not exist, the most recent full-time equivalent program count shall be

used until such time as the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do exist.

(f) The allotments for the alternative education program shall be calculated as provided in subsection (h) of Code Section 20-2-154.1. (Code 1981, § 20-2-160, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1991, § 1; Ga. L. 1990, p. 1354, § 2; Ga. L. 1992, p. 462, § 1; Ga. L. 1992, p. 1335, § 1; Ga. L. 1993, p. 1693, § 1; Ga. L. 1996, p. 494, § 1; Ga. L. 2000, p. 618, § 20; Ga. L. 2001, p. 148, § 4; Ga. L. 2005, p. 795, § 1/SB 33; Ga. L. 2006, p. 743, § 2/SB 515; Ga. L. 2011, p. 635, § 6/HB 186; Ga. L. 2012, p. 893, § 2/SB 289; Ga. L. 2013, p. 1061, § 8/HB 283; Ga. L. 2015, p. 120, § 4/SB 132; Ga. L. 2015, p. 1376, § 12/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education laboratory” for “career or vocational” in the middle of the fourth sentence of subsection (a).

The 2015 amendments. — The first 2015 amendment, effective July 1, 2015, substituted “Code Section 20-2-161.3” for

“Code Section 20-2-159.5” near the end of the seventh sentence in subsection (a). The second 2015 amendment, effective July 1, 2015, substituted “content standards” for “student competencies” near the middle of the fifth sentence in subsection (a).

20-2-161. Quality Basic Education Formula.

(a) The high school general education program is declared to be the base program against which the cost of all other instructional programs shall be compared. The amount of funds needed by each full-time equivalent student in the base program, in order that such program can be sufficiently funded to provide quality basic education to all enrolled students, shall be known as the “base amount” and shall reflect program components which constitute the program weight for the high school general education program in Code Sections 20-2-182 through 20-2-186. However, the General Assembly shall annually establish through the General Appropriations Act the base amount to be used each year. In the event that the base amount so established when multiplied by the program weights in subsection (b) of this Code section requires funds in excess of the appropriation for the Quality Basic Education Formula grants, the funds which are appropriated for the Quality Basic Education Formula shall be prorated to each of the Quality Basic Education Formula cost categories.

(b) As the cost of instructional programs varies depending upon the teacher-student ratios and specific services typically required to address the special needs of students enrolled, state authorized instructional programs shall have the following program weights and teacher-student ratios:

(1) Kindergarten program.....	1.6508	weight and 1 to 15 ratio
(2) Kindergarten early intervention program.....	2.0348	weight and 1 to 11 ratio
(3) Primary grades program (1-3).....	1.2849	weight and 1 to 17 ratio
(4) Primary grades early intervention program (1-3).....	1.7931	weight and 1 to 11 ratio
(5) Upper elementary grades program (4-5).....	1.0355	weight and 1 to 23 ratio
(6) Upper elementary grades early intervention program (4-5).....	1.7867	weight and 1 to 11 ratio
(7) Middle school program (6-8).....	1.1310	weight and 1 to 20 ratio
(8) High school general education program (9-12).....	1.0000	weight and 1 to 23 ratio
(9) Career, technical, and agricultural education laboratory program (9-12).....	1.1916	weight and 1 to 20 ratio

(10) Program for persons with disabilities:
Category I..... 2.3798
weight and
1 to 8
ratio

(11) Program for persons with disabilities:
Category II..... 2.7883
weight and
1 to 6.5
ratio

(12) Program for persons with disabilities:
Category III..... 3.5493
weight and
1 to 5
ratio

(13) Program for persons with disabilities:
Category IV..... 5.7509
weight and
1 to 3
ratio

(14) Program for persons with disabilities:
Category V..... 2.4511
weight and
1 to 8
ratio

(15) Program for intellectually gifted students:
Category VI..... 1.6589
weight and
1 to 12
ratio

(16) Remedial education program..... 1.3087
weight and
1 to 15
ratio

(17) Alternative education program..... 1.4711
weight and
1 to 15
ratio

(18) English for speakers of other languages (ESOL)
program..... 2.5049
weight and
1 to 7
ratio

(c) For purposes of calculating the annual allotment of funds to each local school system, the program weights may be carried to as many additional decimal places as needed and may be varied from the weights stated in subsection (b) of this Code section, consistent with cost-of-living adjustments granted by the General Assembly for salaried and nonsalaried components, by not more than 1 1/2 percent.

(d) The total funds needed for the Quality Basic Education Program for each local school system shall be calculated annually. Such total shall represent the product of the following calculations for each of the programs identified in subsection (b) of this Code section:

(1) Multiply the average full-time equivalent program count pursuant to subsection (b) of Code Section 20-2-160 by the respective program weight established in subsection (b) of this Code section;

(2) Multiply the product computed in paragraph (1) of this subsection by the base amount as established in the General Appropriations Act; and

(3) Add the product computed in paragraph (2) of this subsection to the program adjustment amount for training and experience for the instructional program in accordance with subsection (e) of this Code section.

The process and associated components contained within this Code section shall be known as the "Quality Basic Education Formula."

(e) The State Board of Education shall annually calculate for each instructional program provided for in subsection (b) of this Code section for each local school system the amount of additional funds needed beyond the amounts reflected in the base amount and the program weights, in order to pay the state minimum salaries pursuant to Code Section 20-2-212. The calculation of such additional amount shall be based on all certificated professional personnel who were employed by the local school system as of the month of October for the most recent year that these data are available; provided, however, that the amount needed for training and experience for personnel funded through categorical grants shall only be included in the appropriate categorical grant. The amount shall be reported for each program identified in subsection (b) of this Code section for each full-time equivalent program count date and by segment of the school day and for each categorical program. Such additional amount shall be known as "program adjustment amount for training and experience" and this amount shall be noted in total in the language section of the General Appropriations Act each year.

(f) As the relative costs of the various program components will change over time and as some components will need to be added or

removed, the Governor shall appoint a task force every three years for the purposes of reviewing the effectiveness of existing program weights and recommending to the General Assembly any changes needed. This task force shall be comprised of members or staff of the General Assembly, the State Board of Education, the Governor's office, and representatives of local school systems. (Code 1981, § 20-2-161, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 1; Ga. L. 1991, p. 1531, § 2; Ga. L. 1995, p. 701, § 2; Ga. L. 1995, p. 1302, § 15; Ga. L. 1996, p. 6, § 20; Ga. L. 1996, p. 494, § 2; Ga. L. 1996, p. 1422, § 2; Ga. L. 1998, p. 1520, § 2; Ga. L. 2000, p. 618, § 21; Ga. L. 2001, p. 148, § 5; Ga. L. 2005, p. 798, § 1/SB 35; Ga. L. 2008, p. 216, § 1/HB 1335; Ga. L. 2013, p. 1061, § 9/HB 283; Ga. L. 2015, p. 1376, § 13/HB 502.)

The 2013 amendment, effective July 1, 2013, in subsection (b), substituted "1.6508" for "1.6587" in paragraph (b)(1); substituted "2.0348" for "2.0496" in paragraph (b)(2); substituted "1.2849" for "1.2855" in paragraph (b)(3); substituted "1.7931" for "1.8029" in paragraph (b)(4); substituted "1.0355" for "1.0323" in paragraph (b)(5); substituted "1.7867" for "1.7971" in paragraph (b)(6); substituted "1.0186" for "1.0162" in paragraph (b)(7); substituted "1.1310" for "1.1213" in paragraph (b)(8); substituted "career, technical, and agricultural education" for "vocational" and "1.1916" for "1.1847" in paragraph (b)(10); substituted "2.3798" for "2.3940" in paragraph (b)(11); substituted "2.7883" for "2.8156" in paragraph (b)(12); substituted "3.5493" for "3.5868" in paragraph (b)(13); substituted "5.7509" for "5.8176" in paragraph (b)(14); substituted "2.4511" for "2.4583" in paragraph (b)(15); substituted "1.6589" for "1.6673" in paragraph (b)(16); substituted "1.3087" for

"1.3128" in paragraph (b)(17); substituted "1.4711" for "1.6025" in paragraph (b)(18); substituted "2.5049" for "2.5306" in paragraph (b)(19); and added subsection (b.1).

The 2015 amendment, effective July 1, 2015, deleted former paragraph (b)(7), which read: "(7) Middle grades program (6-8) 1.0186 weight and 1 to 23 ratio"; redesignated former paragraphs (8) through (19) as present paragraphs (7) through (18), respectively; deleted "as defined in Code Section 20-2-290" following "(6-8)" in paragraph (7); and deleted former subsection (b.1), which read: "Notwithstanding the provisions of subsection (b) of this Code section and the requirements of Code Section 20-2-290, beginning July 1, 2014, a nonvirtual middle school shall have the funding weight included in paragraph (8) of subsection (b) of this Code section for the middle school program, regardless of whether such middle school meets the requirements of Code Section 20-2-290."

20-2-161.2. Work based learning programs; legislative intent; participation; standards; coordination; funding.

(a) The General Assembly finds that it would be beneficial to students, employers, and the economic health of the state to assist in providing highly trained, technologically sophisticated, and career oriented students which will aid in the development of a successful twenty-first century work force. By opening their doors to work based learning opportunities, employers can play an active role in shaping the quality of their future work force, by preparing potential leaders for their company and their community, and by helping shape future curriculum to create an educated work force for their industry as a

whole. Work based learning programs can provide students the opportunity to work and learn in a real-world environment and prepare them for future career opportunities. Such work based learning opportunities can be accomplished by developing partnerships between and among the business community, industry, students, parents, school systems, and postsecondary education institutions.

(b) Any student aged 16 or over in any public school in this state may enroll in a work based learning program which is offered at that public school and which is approved for secondary credit by the department. Such student shall be granted release time from the public school to work as a student learner for any business or governmental enterprise which is approved by the local work based learning coordinator as a qualified employer pursuant to this Code section and work based learning program guidelines established by the department. A student shall receive secondary credit for such work based learning only under the conditions established by the department. The department is authorized to establish work based learning programs and guidelines to assist local school systems in operating such programs and to promulgate such policies, standards, procedures, criteria, and administrative requirements as may be necessary to implement the program by rules and regulations. The work based learning programs established pursuant to this Code section may include, but not be limited to, employability skill development, service learning, cooperative education, internships, and youth apprenticeships. The department shall collaborate with the Department of Labor and the Technical College System of Georgia in developing such policies and procedures. The department's work based learning programs shall include but not be limited to the following:

- (1) A detailed training agreement and training plan between employer and student that identifies specific work tasks that will develop workplace competency;
- (2) A minimum of one unit of credit in a career pathway course related to the work based learning placement;
- (3) A minimum number of hours of on-the-job training as required in the department's guidelines for awarding secondary credit;
- (4) On-site evaluation of the student's performance;
- (5) Training remediation as necessary at the school site;
- (6) A broad range of skills but shall be focused on skills related to the student's career pathway;
- (7) Development of materials by the business, industry, and labor community in conjunction with the department to promote the

awareness of work based learning opportunities for high school students and encourage recruitment; and

(8) Structural linkage between secondary and postsecondary components of the program leading to the awarding of a high school diploma and a postsecondary credential related to the student's career pathway.

(c) Local school systems and college and career academies may designate one or more local work based learning coordinators to coordinate and oversee work based learning programs for the school system.

(d) Local work based learning coordinators shall complete training programs that are collaboratively designed and delivered by the department and the Technical College System of Georgia.

(e) A college and career academy established in accordance with Code Section 20-4-37 which participates in work based learning programs pursuant to this Code section and its charter shall be eligible for any funding or assistance available for the implementation of this Code section.

(f) The State Board of Education shall encourage local school systems to work with their industry partners to develop and provide opportunities for industry experience for local work based learning coordinators and for teachers and shall provide for professional learning credit for coordinators and teachers who participate in such opportunities. (Code 1981, § 20-2-161.2, enacted by Ga. L. 1992, p. 2772, § 1; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2014, p. 341, § 2/HB 766.)

The 2014 amendment, effective July 1, 2014, rewrote this Code section.

Editor's notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General

Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

20-2-161.3. Move on When Ready Act; dual credit courses.

(a) This Code section shall be known and may be cited as the "Move on When Ready Act."

(b) For purposes of this Code section, the term:

(1) "Commission" means the Georgia Student Finance Commission created by Code Section 20-3-233.

(2) "Department" means the Department of Education.

(3) "Dual credit course" means a postsecondary course, including a virtual course, taken by an eligible high school student pursuant to an arrangement at or through an eligible postsecondary institution

for which the student receives secondary credit from his or her eligible high school.

(4) “Eligible high school” means any private or public secondary educational institution located within the State of Georgia and any home study program operated pursuant to Code Section 20-2-690.

(5) “Eligible high school student” means a student entering ninth, tenth, eleventh, or twelfth grade at an eligible high school.

(6) “Eligible postsecondary institution” or “postsecondary institution” means any eligible postsecondary institution as defined in paragraph (7) of Code Section 20-3-519.

(7) “Program” means the arrangement authorized by this Code section whereby an eligible high school student takes one or more dual credit courses with the goal of completing postsecondary credit and high school diploma requirements.

(8) “Secondary credit” means high school credit for dual credit courses taken at or through an eligible postsecondary institution under the program.

(c) Any eligible high school student may apply to an eligible postsecondary institution to take one or more dual credit courses at or through that postsecondary institution which are approved for secondary credit pursuant to subsection (f) of this Code section. If accepted at an eligible postsecondary institution, such eligible high school student may take any such approved dual credit course at or through that postsecondary institution, whether or not the course is taught during the regular eligible high school day, and receive secondary credit therefor under the conditions provided in this Code section.

(d) In consultation with and subject to approval by the commission, the department shall develop appropriate forms and counseling guidelines for the program and shall make such forms and guidelines available to eligible high schools and eligible postsecondary institutions. No later than the first day of February each year, each eligible high school shall provide general information about the program, including such forms, to all its eligible high school students. An eligible high school shall also provide counseling services to such students and their parents or guardians before the students enroll in the program. Prior to participating in the program, the student and the student’s parent or guardian shall sign the form provided by the eligible high school or by an eligible postsecondary institution stating that they have received the counseling specified in this subsection and that they understand the responsibilities that shall be assumed in participating in the program. Program information and materials shall be provided to each eighth grade public school student at the time the student is

developing his or her individual graduation plan as required by Code Section 20-2-327.

(e) Each eligible high school shall be required to execute a participation agreement as prescribed by the commission.

(f)(1) A participating eligible high school shall grant secondary credit to an eligible high school student enrolled in a dual credit course in an eligible postsecondary institution if such student successfully completes that course. The secondary credit granted shall be for a comparable required course; career, technical, and agricultural education course; or elective course. Upon completion of an eligible postsecondary institution's dual credit course, the eligible high school student shall be responsible for requesting that the eligible postsecondary institution notify the student's eligible high school regarding his or her grade in that course.

(2) Secondary credits granted for eligible postsecondary institution dual credit courses under paragraph (1) of this subsection shall be counted by the eligible high school toward graduation requirements and subject area requirements of the eligible high school. Evidence of successful completion of each dual credit course and secondary credits granted shall be included in the eligible high school student's secondary school records.

(3) A participating eligible high school shall be required to award a high school diploma to any eligible high school student who is enrolled at or through an eligible postsecondary institution under the program as long as the credit earned at or through such postsecondary institution satisfies course requirements needed for the eligible high school student to complete high school graduation. The State Board of Education, in consultation with the State Board of the Technical College System of Georgia and the Board of Regents of the University System of Georgia, shall determine appropriate courses to meet these requirements. No later than July 1, 2015, the Department of Education shall communicate to high schools the subject area requirements or elective courses that may be satisfied with dual credit courses provided by eligible postsecondary institutions, which shall include completion of:

(A) At least the following state required ninth and tenth grade level high school courses or their equivalent: two English courses, two mathematics courses, two science courses, two social studies courses, and one health and physical education course; and any state required tests associated with any such courses; and

(B) One of the following:

(i) An associate degree program;

(ii) A technical college diploma program and all postsecondary academic education and technical education and training prerequisites for any state, national, or industry occupational certifications or licenses required to work in the field; or

(iii) At least two technical college certificate of credit programs in one specific career pathway and all postsecondary academic education and technical education and training prerequisites for any state, national, or industry occupational certifications or licenses required to work in the field as determined by the Technical College System of Georgia.

(g) Hours for dual credit courses taken at or through an eligible postsecondary institution pursuant to this Code section by an eligible high school student shall not count against any maximum hourly caps which may be applicable for purposes of HOPE scholarships or grants.

(h) The commission is authorized to promulgate rules and regulations not inconsistent with the provisions of this Code section relating to the program described in this Code section.

(i) Every eligible postsecondary institution shall be subject to examination by the commission for the sole purpose of determining whether such postsecondary institution has properly complied with rules and regulations established pursuant to this Code section. Such examination shall be conducted by the commission no less frequently than once every three years. The commission is authorized to conduct the examination using sampling and extrapolation techniques. However, nothing in this subsection shall be construed to interfere with the authority of the postsecondary institution to determine its own curriculum, philosophy, purpose, or administration. In the event it is determined that a postsecondary institution knowingly or through error certified an ineligible student to be eligible for the program established under this Code section, the amount paid to the postsecondary institution pursuant to such certification shall be refunded by the postsecondary institution to the commission. The commission may suspend a postsecondary institution from receiving payments under this Code section if it fails to refund any moneys deemed due pursuant to this subsection.

(j) In order to participate in the program, each eligible postsecondary institution shall be required to enter into a participation agreement with the commission agreeing to:

(1) Waive all mandatory and noncourse related fees for eligible high school students participating in the program;

(2) Provide course books to eligible high school students participating in the program at no charge to the student; and

(3) Accept the amount paid by the commission as full payment for an eligible high school student's tuition, mandatory and noncourse related fees, and course books.

(k) The funding provided to the commission for the program shall be subject to annual appropriations enacted by the General Assembly beginning in Fiscal Year 2016. The commission shall set criteria for funding for tuition, mandatory and noncourse related fees, course books, and transportation. The amount of such funds to be paid shall be determined by the commission. The commission shall create a grant program, subject to the availability of funds, pursuant to which participating public eligible high schools may apply for transportation grants. Such grants shall be awarded based on criteria, terms, and conditions determined by the commission in consultation with the department.

(l) In the event the funds made available to the commission are not sufficient to enable the commission to meet all funding requirements of the program, the amount paid to eligible postsecondary institutions shall be reduced by the commission. Under no circumstances shall the eligible postsecondary institutions require an eligible high school student participating in the program to pay for tuition, mandatory and noncourse related fees, or course books.

(m) Students enrolled in a work based learning program under Code Section 20-2-161.2 may be eligible to earn dual credit upon completing a planned training experience under guidelines developed by the Department of Education and the Technical College System of Georgia provided students meet postsecondary readiness established in reading and writing and mathematics for the particular advanced training program or associate's degree. (Code 1981, § 20-2-161.3, enacted by Ga. L. 2009, p. 228, § 2/HB 149; Ga. L. 2011, p. 632, § 3/HB 49; Ga. L. 2015, p. 120, § 1/SB 132.)

The 2015 amendment, effective July 7, 2015, rewrote this Code section.

20-2-165.1. Charter system earnings for each full-time equivalent student; use of funds.

In addition to the amounts earned by a charter system pursuant to subsection (b) of Code Section 20-2-161, a charter system shall earn 3.785 percent of the base amount established pursuant to subsection (a) of Code Section 20-2-161 for each full-time equivalent student in each school within the charter system; provided, however, that no individual charter system shall receive more than \$4.5 million in a fiscal year. Funds appropriated pursuant to this Code section shall be used in accordance with recommendations of the school level governing body

established by the charter or to advance student achievement goals and school level governance training objectives pursuant to the charter. (Code 1981, § 20-2-165.1, enacted by Ga. L. 2008, p. 603, § 2A/HB 881; Ga. L. 2013, p. 1061, § 10/HB 283.)

The 2013 amendment, effective July 1, 2013, in this Code section, added the proviso at the end of the first sentence, and added the second sentence.

20-2-167. Funding for direct instructional, media center, and staff development costs; computerized uniform budget and accounting system; submission of local budget to state board; provision of certain information by local boards.

(a)(1) The State Board of Education shall annually compute, based upon the initial allotment of funds to each local school system, the total funds needed for direct instructional costs for each program identified in Code Section 20-2-161, specifying the number of positions earned and salaries and operational costs portions. "Direct instructional costs" is defined as those components of the program weights which are specified in subsections (a) through (g) of Code Section 20-2-182. In computing the total funds needed for direct instructional costs for each program, the state board shall apply the percentage that these costs represent of the total costs used in developing the program weights. The direct instructional costs for the five instructional programs for disabled students shall be summed into one amount for special education. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system and each school reflecting the total amount of earnings, initial earnings, and midterm adjustment, if any, for each program authorized by Code Section 20-2-161. For each such program, each local school system shall spend a minimum of 90 percent of funds designated for direct instructional costs on the direct instructional costs of such program at the school site in which the funds were earned, except that funds earned for special education programs shall be summed for the purposes of this expenditure control. For the purposes of this expenditure control, funds earned for counselors and technology specialists shall each be summed to the school level. Only the state salary amounts resulting from the amount earned on the state-wide salary schedule as approved by the State Board of Education pursuant to Code Section 20-2-212 plus associated benefits funded by the state and the salaries and any state earned benefits or comparable state earned benefits of technology specialists and classroom aides may be applied to the salary cost components for the purpose of meeting this expenditure control. Except as otherwise provided by law or rule and regulation of the state board, local school systems may decide whether direct instructional funds shall be used

for teacher salaries, aide salaries, instructional material or equipment, or any other appropriate direct instructional expense; provided, however, that 100 percent of funds earned for direct instructional salaries shall be expended for salaries of direct instructional personnel and classroom aides. The total number of positions earned for direct instruction as specified in Code Section 20-2-182, adjusted for maximum class size, shall be employed for the delivery of services for which the funds were earned. This position control shall be for the kindergarten program, the kindergarten early intervention program, the primary grades program, and the primary grades early intervention program combined and the combined total for all other programs; provided, however, that positions earned for art, music, foreign language, and physical education, technology specialists, and counselors shall be totaled for all programs. Fractional amounts may be combined and used for any direct instructional position. Funds earned for any fractional amounts may be used for any direct instructional expense. Quality Basic Education Formula funds in excess of the amount required by this paragraph to be expended by a local school system for the direct instructional costs of an instructional program specified by Code Section 20-2-161 which are not expended for direct instructional costs must be returned to the state treasury.

(2) The state board shall annually compute, based upon the initial allotment of funds to each local school system, the total funds needed system wide for media center costs, specifying the salaries and materials cost portions. In computing the total funds needed for media center costs, the state board shall apply the percentage that these costs represent of the total costs used in developing program weights. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system and each school reflecting the total amount of earnings, initial earnings, and midterm adjustment, if any, for each program authorized by Code Section 20-2-161. Each local school system shall spend 100 percent of the funds designated for media center costs for such costs, and a minimum of 90 percent of such funds shall be spent at the school site in which such funds were earned.

(3) The state board shall annually compute, based upon the initial allotment of funds to each local school system, the total funds needed system wide for staff development costs. In computing the total funds needed for these categories, the state board shall apply the percentage that these costs represent of the total costs used in developing the program weights. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system and each school reflecting the total amount, initial earnings, and midterm adjustment, if any, of earnings for each program specified in subsec-

tion (b) of Code Section 20-2-161. Each local school system shall spend 100 percent of the funds designated for staff and professional development costs, as allowed by State Board of Education policy, for such costs. The State Board of Education, in consultation with the Professional Standards Commission, shall establish category-level expenditure controls to ensure that the staff development funds allotted pursuant to this paragraph are utilized in such a manner as to help align professional learning with results in improved student achievement. Such category-level expenditure controls shall be established no later than July 1, 2015, and shall reflect the revised certification renewal rules established by the Professional Standards Commission pursuant to paragraph (4.1) of subsection (b) of Code Section 20-2-200 regarding the impact of professional learning on student achievement. For each local school system which is granted an additional allotment for the midterm adjustment pursuant to Code Section 20-2-162, these amounts shall be increased by the portion of the midterm adjustment allotment which is applied to staff development. In the event a local school system does not actually enroll the full-time equivalent count that was anticipated by its initial allocation and it elects to return a portion of its allocation for staff development and professional development costs to the state, the 100 percent amount for staff development shall be reduced by that returned amount. Quality Basic Education Formula funds in excess of the amount required by this paragraph to be expended by a local school system for staff development and professional development of certificated and instructional personnel which are not expended for this purpose may be expended only for staff development of noncertificated personnel employed by the local school system and the members of the local school board, for meeting certification requirements of personnel, and for administration and operation of the staff development and professional development programs authorized pursuant to subsection (h) of Code Section 20-2-182.

(4) All funds earned pursuant to this article may be expended only for the operation of educational programs and services explicitly authorized under this article.

(5) The budget of each local school system shall reflect all anticipated revenues from each source. The budget of each local school system shall designate all of such anticipated revenues among the several funds or accounts of the system and shall not leave any anticipated revenues undesignated. Except as otherwise provided in this paragraph, all amounts allocated to each fund or account and any existing balance in each fund or account shall be intended for expenditure within the budget year for the purposes of that fund or account. There shall be no fund or account in the nature of a "surplus" or "unobligated surplus" fund or account. Each local school system

may, however, establish a single reserve fund or reserve account intended to cover unanticipated deficiencies in revenue or unanticipated expenditures, provided that the budget for any year shall not allocate to such reserve fund or reserve account any amounts which, when combined with the existing balance in such fund or account, exceed 15 percent of that year's total budget. A local school system may also establish one or more capital accumulation funds or accounts, and amounts may be allocated to such capital accumulation funds or accounts for expenditure in future budget years only if the purpose for which such amounts will be expended and the anticipated date of expenditure of such amounts are clearly and specifically identified. The purpose of this paragraph is to prohibit local school systems from accumulating surplus funds through taxation without accounting to the taxpayers for how such funds will be expended, and this paragraph shall be liberally construed to accomplish this purpose.

(b)(1) The State Board of Education shall establish a computerized uniform budget and accounting system as a component of the state-wide comprehensive educational information system established pursuant to Code Section 20-2-320 and shall establish uniform regulations to be implemented by local units of administration. The computerized uniform budget and accounting system shall conform to generally accepted governmental accounting principles which shall include, but not be limited to, the following costing information:

- (A) Instructional program involved;
- (B) Whether basic education or enrichment in purpose;
- (C) Fund source or sources; and
- (D) Major program components such as instructional personnel, instructional operations, facility maintenance and operation, media center operation, school administration, system administration, staff development, or professional development.

(2) The state board shall prescribe information that must be submitted to the state board and the time it must be submitted. In determining the information needed and the time for submission, the state board shall take into consideration the information and times identified by the Office of Student Achievement as necessary to the implementation of the accountability program provided for in Part 3 of Article 2 of Chapter 14 of this title. The state board is authorized to establish a financial review section for the limited purpose of reviewing financial records and accounting of local governing boards and assisting local units of administration in training personnel in financial and budgetary accounting.

(c) The State Board of Education is authorized to prescribe a date by which each local unit of administration must submit a budget to the

state board. The regulations developed by the state board must make adequate provision for local review and modification prior to local approval and submittal to the State School Superintendent. The State School Superintendent shall provide for the examination and preparation of a written report on the budget of each local unit and submit a copy to the state board and to the respective local unit of administration. The state board shall either accept or reject the budget of a local unit.

(d) The standards set forth in this article shall be construed as setting out a basic plan for the direction of the State Board of Education in planning a program and presenting proposals to the Governor and to the General Assembly. Nothing in this article shall be construed as amending or modifying in any way Part 1 of Article 4 of Chapter 12 of Title 45, known as the "Budget Act." The state board shall, in all of its programs involving allocation or expenditure of funds, be governed and controlled by Part 1 of Article 4 of Chapter 12 of Title 45 and all other laws of general application pertaining to the handling and expenditure of state funds, none of which is amended, modified, or repealed by this article unless specifically so provided in this article.

(e) No later than October 1, 2005, the State Board of Education shall develop rules and regulations requiring that each local board of education provide information as specified by the state board and which is not specifically made confidential by law, including school site budget and expenditure information and site average class size by grade, to members of the school council and the general public. (Code 1981, § 20-2-167, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1412, § 1; Ga. L. 1989, p. 690, § 1; Ga. L. 1990, p. 847, § 2; Ga. L. 1990, p. 1972, § 3; Ga. L. 1991, p. 1531, § 4; Ga. L. 1991, Ex. Sess., p. 86, § 2; Ga. L. 1992, p. 6, § 20; Ga. L. 1994, p. 1315, § 2; Ga. L. 1995, p. 1302, § 14; Ga. L. 1998, p. 1520, § 3; Ga. L. 2000, p. 618, § 25; Ga. L. 2001, p. 4, § 20; Ga. L. 2001, p. 148, § 7; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 798, § 2/SB 35; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2010, p. 158, § 1/HB 908; Ga. L. 2011, p. 647, § 3/HB 192; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2012, p. 355, § 1/SB 404.)

Editor's notes. — Pursuant to its own terms, former subsection (f), as added by Ga. L. 2010, p. 158, § 1/HB 908, concerning waiver of expenditure controls, was repealed effective July 1, 2015.

20-2-171. Minimum direct classroom expenditures; waivers; sanctions for noncompliance; submission of budget and expenditure information; rules and regulations.

(a) For purposes of this Code section, the term:

(1) “Direct classroom expenditures” means all expenditures by a local school system during a fiscal year for activities directly associated with the interaction between teachers and students, including, but not limited to, salaries and benefits for teachers and paraprofessionals; costs for instructional materials and supplies; costs associated with classroom related activities, such as field trips, physical education, music, and arts; and tuition paid to out-of-state school districts and private institutions for special needs students. This term shall not include costs for administration, plant operations and maintenance, food services, transportation, instructional support including media centers, teacher training, and student support such as nurses and school counselors.

(2) “Total operating expenditures” means all operating expenditures by a local school system during a fiscal year, including expenditures from federal, state, and local funds and from any other funds received by a local school system, such as student activity fees. This term shall not include capital outlay expenditures, debt or bond payments, interest on debt or bonds, facility leases, or rental payments. This term shall also not include any costs which are incurred by a local school system to comply with any mandate by statute or by the Georgia Department of Education effective on or after January 1, 2006, to add specific nonclassroom staff positions.

(b) Beginning with fiscal year 2008:

(1) Each local school system shall spend a minimum of 65 percent of its total operating expenditures on direct classroom expenditures, except as otherwise provided in this subsection;

(2) For any fiscal year in which a local school system has direct classroom expenditures that are less than 65 percent of its total operating expenditures, the local school system shall be required to increase its direct classroom expenditures by a minimum of 2 percent per fiscal year as a percentage of total operating expenditures, beginning in the subsequent fiscal year and each fiscal year thereafter, until it reaches 65 percent. For fiscal year 2008, the baseline year from which the required increase will be determined shall be based on expenditure data from fiscal year 2007;

(3) A local school system that has direct classroom expenditures that are less than 65 percent of its total operating expenditures and that is unable to meet the expenditure requirements in paragraph (2) of this subsection may apply to the State Board of Education for a one-year renewable achievement waiver. The waiver request must include evidence that the local school system is exceeding the state averages in academic categories designated by the board, which may include, but not be limited to, end-of-grade assessments,

end-of-course assessments, and the SAT, a plan for obtaining compliance with this Code section, and any other information required at the discretion of the board; and

(4) A local school system that has direct classroom expenditures that are less than 65 percent of its total operating expenditures and that is unable to meet the expenditure requirements in paragraph (2) of this subsection may apply to the State Board of Education for a one-year renewable hardship waiver. Waivers granted pursuant to this paragraph shall be limited to extreme situations in which such situation is solely responsible for the local school system's inability to meet the expenditure requirements. Such situations may include, but are not limited to, acts of God and inordinate unexpected increases in energy and fuel costs. The waiver request must include revenue and expenditure reports and specific details providing compelling evidence as to the impact that the intervening extreme situation had on the local school system's ability to comply with expenditure requirements and any other information required at the discretion of the board.

(c) The State Board of Education shall have the authority to impose sanctions against a local school system that fails to comply with the provisions of this Code section or any rules and regulations promulgated pursuant to subsection (e) of this Code section. Such sanctions shall be at the discretion of the board and may include, but not be limited to, requiring the local school system to devise and implement a plan to meet the expenditure requirements of this Code section in the subsequent fiscal year or withholding all or any portion of state funds in accordance with Code Section 20-2-243.

(d) The State Board of Education shall be authorized to require the submission of budget information and expenditure data from local school systems for the purposes of verifying compliance with this Code section.

(e) The State Board of Education shall be authorized to promulgate rules and regulations to implement the provisions of this Code section. (Code 1981, § 20-2-171, enacted by Ga. L. 2006, p. 56, § 2/SB 390; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1061, § 33/HB 283; Ga. L. 2015, p. 21, § 3/HB 91.)

The 2013 amendment, effective July 1, 2013, substituted "school counselors" for "guidance counselors" at the end of paragraph (a)(1).

The 2015 amendment, effective March 30, 2015, substituted "end-of-grade

assessments, end-of-course assessments," for "criterion-referenced competency tests, the Georgia High School Graduation Test," in the middle of the last sentence of paragraph (b)(3).

PART 5

PROGRAM WEIGHTS AND FUNDING REQUIREMENTS

20-2-181. Calculation of program weights to reflect base school size.

The calculation of all program weights shall reflect a base size local school system of 3,300 full-time equivalent students. The calculation of program weights for the kindergarten program, the kindergarten early intervention program, the primary grades (1-3) early intervention program, the primary grades (1-3) program, the upper elementary grades (4-5) early intervention program, and the upper elementary grades (4-5) program shall reflect a base school size of 450 full-time equivalent students. The calculation of program weights for the middle school (6-8) program, the special education programs, the remedial education program, and the English for speakers of other languages program shall reflect a base school size of 624 full-time equivalent students. The calculation of program weights for the high school general education program and the high school career, technical, and agricultural education laboratory program shall reflect a base school size of 970 full-time equivalent students. The calculation of program weights for the alternative education program shall reflect a base school size of 100 full-time equivalent students, except that the calculations for secretaries and media personnel shall reflect a base school size of 624 full-time equivalent students. (Code 1981, § 20-2-181, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 3; Ga. L. 2000, p. 618, § 26; Ga. L. 2001, p. 148, § 8; Ga. L. 2013, p. 1061, § 11/HB 283; Ga. L. 2015, p. 1376, § 14/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in the fourth sentence.

1, 2015, deleted “middle grades (6-8) program, the” preceding “middle school” near the middle of the third sentence; and deleted “the” preceding “program weights” in the fourth sentence.

The 2015 amendment, effective July

20-2-182. Program weights to reflect funds for payment of salaries and benefits; maximum class size; reporting requirements; application to specific school years.

(a) The program weights, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of all teachers needed to provide essential classroom instruction in order to ensure a Quality Basic Education Program for all enrolled students, subject to appropriation by the General Assembly.

(b) The program weights for the primary, primary grades early intervention, upper elementary, upper elementary grades early inter-

vention, and middle school programs, when multiplied by the base amount, shall reflect sufficient funds to pay at least the beginning salaries of specialists qualified to teach art, music, foreign language, and physical education, subject to appropriation by the General Assembly.

(c) The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for at least one school counselor for every 450 full-time equivalent students. Beginning in Fiscal Year 2015 and thereafter, the program weights for the English for speakers of other languages program and the programs for persons with disabilities shall also earn school counselor funding. Further, beginning in Fiscal Year 2016 and thereafter, the program weights for the program for intellectually gifted students and the remedial education program shall also earn school counselor funding. The duties and responsibilities for such school counselors shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor's time to be spent counseling or advising students or parents.

(c.1) The program weights for the kindergarten and the kindergarten early intervention programs, when multiplied by the base amount, shall reflect sufficient funds to pay the salaries for instructional aides.

(d) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for technology specialists needed to provide essential technology services.

(e) The program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to provide teachers with a preparation period free of assigned students.

(f) Reserved.

(g) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the cost of sick and personal leave for teachers, the employer's portion of costs for membership in the Teachers Retirement System of Georgia and health insurance programs authorized by law, the cost of essential instructional materials, which shall include, but not be limited to, textbooks and technology, and equipment needed to operate effectively such instructional programs, and the cost of travel required of personnel in order to deliver educational services to enrolled students, subject to appropriation by the General Assembly.

(h) All program weights, when multiplied by the base amount, shall reflect, whenever they are revised pursuant to subsection (f) of Code Section 20-2-161, an amount of funds for the purpose of providing staff and professional development to certificated and classified personnel and local school board members which shall be at least equivalent to 1.0 percent of salaries of all certificated professional personnel used in the development of each respective program weight, subject to appropriation by the General Assembly. Beginning in Fiscal Year 2014, such amount shall include funding for school level administrators in the same manner as for other certificated professional personnel. Beginning in Fiscal Year 2015, such amount shall be at least equivalent to 0.9 percent of salaries of all certificated professional personnel, including school level administrators, used in the development of each respective program weight, subject to appropriation by the General Assembly. Funds used for professional or staff development purposes may be used throughout the fiscal year, including days when students are not present at school, to meet professional or staff development needs in the order of priority determined by the local board of education within the comprehensive professional and staff development program plan approved by the State Board of Education. Such professional and staff development program plan shall address deficiencies of certificated personnel as identified by evaluations required under Code Section 20-2-210. Further, professional and staff development funds shall be used for activities that enhance the skills of certificated personnel and directly relate to student achievement, as reflected in the revised certification renewal rules established by the Professional Standards Commission pursuant to paragraph (4.1) of subsection (b) of Code Section 20-2-200 regarding the impact of professional learning on student achievement. Subsequent certificated personnel evaluations shall include an assessment of an employee’s professional and staff development activities and their effect on identified deficiencies and student achievement. Funds for professional development purposes may be used for activities occurring at any time during the fiscal year outside of an employee’s normal contract hours.

(i)(1) It is the intent of this paragraph to provide a clear expectation to parents and guardians as to the maximum number of students that may be in their child’s classroom in kindergarten through eighth grade. Beginning with the 2006-2007 school year, for the following regular education programs, the maximum individual class size for mathematics, science, social studies, and language arts classes shall be:

(A) Kindergarten program (without full-time aide)	18
(B) Kindergarten program (with full-time aide) ...	20
(C) Primary grades program (1-3)	21

(D) Upper elementary grades program (4-5) 28

(E) Middle school program (6-8) 28

For school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, the system average maximum class size for each instructional program covered under this paragraph shall be the same as the maximum individual class size for each such program, and local boards of education shall be considered in compliance with this paragraph so long as the system average maximum class size is not exceeded; provided, however, that if the State Board of Education approves a blanket waiver or variance pursuant to subsection (h) of Code Section 20-2-244, such maximum individual class sizes shall be the system average maximum class sizes for purposes of this paragraph.

(2) The State Board of Education shall adopt for each instructional program authorized pursuant to Part 3 of this article except those programs included in paragraph (1) of this subsection the maximum number of students which may be taught by a teacher in an instructional period. For the remedial education, career, technical, and agricultural education laboratory, alternative education, and early intervention programs, the State Board of Education shall provide for a system average maximum class size that shall not exceed the funding class size by more than 20 percent, unless specifically authorized by the State Board of Education; provided, however, that the system average maximum class size for special education, gifted, and English for speakers of other languages classes shall be set by the State Board of Education. For each instructional program covered under this paragraph, the maximum number of students who may be taught by a teacher in an instructional period shall not exceed the system average maximum class size for the program by more than two students; provided, however, that a system average maximum class size which results in a fractional full-time equivalent shall be rounded up to the nearest whole number; provided, however, that this provision shall not apply to general education programs in mathematics, science, social studies, and language arts for grades 9 through 12. Beginning with the 2007-2008 school year, each local board of education shall be allowed to exceed maximum class sizes set by the state board pursuant to this paragraph for general education programs in mathematics, science, social studies, and language arts for grades 9 through 12 and may establish such maximum class sizes that shall not exceed the funding class size by more than 39 percent and shall annually report to the state board and to each school council in its school system such class sizes established.

(3) The maximum individual class size for the kindergarten and primary grades programs is defined as the number of students in a physical classroom. The maximum individual class size for all other purposes shall be defined as the maximum number of students that may be taught by a teacher in a class segment. Maximum class sizes for the programs covered in paragraph (2) of this subsection that result in a fractional full-time equivalent shall be rounded up to the nearest whole number as needed.

(4) The number of students taught by a teacher at any time after the first 15 school days of a school year may not exceed the maximum such number unless authorization for a specific larger number is requested of the state board after the first FTE count of a school year as required in subsection (a) of Code Section 20-2-160. The state board may approve said request only in the limited circumstance where educationally justified and where an act of God or other unforeseen event led to the precipitous rise in enrollment within that school system or led to another occurrence which resulted in the local board's inability to comply with this subsection. The state board shall not reduce class sizes without the authorization of the General Assembly if this reduction necessitates added costs for facilities, personnel, and other program needs. Local boards of education may reduce class sizes, build additional facilities, and provide other resources at local cost if such actions are in the best interest of the local school systems' programs as determined by the local boards of education.

(j) In its report of the initial full-time equivalent program count required by subsection (a) of Code Section 20-2-160, each local school system shall report to the Department of Education the number of students in each class in each school as of the date of the initial enrollment count; for schools where students change classes during the school day, the local school system shall report the number of students in each class period. Each local school system shall also report to the Department of Education by March 15 of each school year the number of students in each class in each school as of the first Monday in March; for schools where students change classes during the school day, the local school system shall report the number of students in each class period. (Code 1981, § 20-2-182, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 8; Ga. L. 1988, p. 1412, § 2; Ga. L. 1988, p. 1496, § 1; Ga. L. 1990, p. 847, § 4; Ga. L. 1990, p. 918, § 1; Ga. L. 1991, p. 94, § 20; Ga. L. 1991, p. 1531, § 5; Ga. L. 1994, p. 1315, § 4; Ga. L. 2000, p. 618, § 27; Ga. L. 2001, p. 148, § 9; Ga. L. 2003, p. 185, § 4; Ga. L. 2004, p. 107, § 5; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 798, § 4/SB 35; Ga. L. 2006, p. 66, § 2/HB 1358; Ga. L. 2007, p. 674, § 2/SB 123; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2010, p. 158, § 3/HB 908; Ga. L. 2011, p. 647, § 4/HB 192; Ga. L. 2011, p. 752,

§ 20/HB 142; Ga. L. 2012, p. 355, § 2/SB 404; Ga. L. 2013, p. 1061, § 12/HB 283; Ga. L. 2015, p. 5, § 20/HB 90; Ga. L. 2015, p. 1376, § 15/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of subsection (c) for the former provisions, which read: “The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle grades, middle school, and alternative education programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for guidance counselors needed to provide essential guidance services to students and whose duties and responsibilities shall be established by the state board to require a minimum of five of the six full-time equivalent program count segments of the counselor’s time to be spent counseling or advising students or parents.”; inserted “,

which shall include, but not be limited to, textbooks and technology,” in the middle of subsection (g); and substituted “career, technical, and agricultural education” for “vocational” near the beginning of the second sentence of paragraph (i)(2).

The 2015 amendments. — The first 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, deleted “pursuant to Code Section 20-2-232” following “Board of Education” at the end of the fourth sentence in subsection (h). The second 2015 amendment, effective July 1, 2015, deleted “middle grades,” following “early intervention” in the middle of subsection (b) and in the middle of the first sentence of subsection (c); and substituted the present provisions of subparagraph (i)(1)(E) for the former provisions, which read: “Middle grades program (6-8) and middle school program (6-8) as defined in Code Section 20-2-290.....28”.

20-2-184.1. Funding for additional days of instruction; programs for low-performing students; transportation costs.

The program weights for the kindergarten, kindergarten early intervention, primary, primary grades early intervention, upper elementary, upper elementary grades early intervention, middle school, and remedial programs and the program weights for the high school programs authorized pursuant to paragraph (4) of subsection (b) of Code Section 20-2-151, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries for instructors needed to provide 20 additional days of instruction for 10 percent of the full-time equivalent count of the respective program. Such funds shall be used for addressing the academic needs of low-performing students with programs including, but not limited to, instructional opportunities for students beyond the regular school day, Saturday classes, intersession classes, summer school classes, and additional instructional programs during the regular school day. Following the midterm adjustment, the state board shall issue allotment sheets for each local school system. Each local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level, which may include transportation costs incurred for transporting students

who are attending additional classes funded by these designated funds. (Code 1981, § 20-2-184.1, enacted by Ga. L. 2001, p. 148, § 10; Ga. L. 2003, p. 185, § 5; Ga. L. 2010, p. 158, § 4/HB 908; Ga. L. 2011, p. 647, § 5/HB 192; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 1061, § 13/HB 283; Ga. L. 2015, p. 1376, § 16/HB 502.)

The 2013 amendment, effective July 1, 2013, in subsection (a), substituted “summer school classes, and additional instructional programs during the regular school day” for “and summer school classes” near the end of the second sentence, and substituted the present provisions of the fourth and fifth sentences for the former provisions, which read: “Each local school system shall spend 100 percent of the funds designated for additional days of instruction for such costs at the system level. Up to 15 percent of funds designated for additional days of instruction may be spent for transportation costs

incurred for transporting students who are attending the additional classes funded by these designated funds.”

The 2015 amendment, effective July 1, 2015, deleted “middle grades,” following “early intervention,” near the beginning.

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2015, the subsection (a) designation was deleted.

Editor’s notes. — Pursuant to its own terms, subsection (b), as added by Ga. L. 2010, p. 158, § 4/HB 908, concerning waiver of expenditure controls, was repealed effective July 1, 2015.

20-2-186. (For effective date, see note.) Allocation of funds for local systems to pay beginning salaries of superintendents, secretaries, accountants, nurses, and certain other personnel; eligibility of failing schools for funds.

(a) Funds provided under this article shall include the following for local systems to pay, on a 12 month basis, the beginning salaries of superintendents, assistant superintendents, and principals and the salaries of secretaries, accountants, and nurses, subject to appropriation by the General Assembly:

(1) Each local system shall earn, for any number of full-time equivalent students equal to or under 5,000, funds sufficient to pay the beginning salaries of a superintendent and two assistant superintendents and the salaries of a secretary and an accountant; and

(2) For numbers of full-time equivalent students over 5,000 and less than 10,001, funds sufficient to pay the beginning salaries of a superintendent and four assistant superintendents and the salaries of a secretary and an accountant; and

(3) For numbers of full-time equivalent students over 10,000, funds sufficient to pay the beginning salaries of a superintendent and eight assistant superintendents and the salaries of a secretary and an accountant; and

(4) Each local system shall earn funds for the 2000-2001 school year sufficient to pay the beginning salary of a principal for each school in the local school system with a principal of record for the

preceding year. Thereafter, each local school system shall earn funds sufficient to pay the beginning salary of a principal for each school in the local school system that reported a principal on the October certified personnel information report; provided, however, that any school which operates as a combination school, which is defined as any of the elementary grades, kindergarten through grade five, contiguous with one or more of the middle grades, grades six through eight; or as a combination school of any of the middle grades, grades six through eight, contiguous with one or more of the elementary grades or contiguous with one or more of the high school grades, grades nine through 12; or as a combination school of any of the high school grades, contiguous with one or more of the middle grades, shall earn funds sufficient to pay the beginning salary of a principal for each of the elementary, middle, or high school combinations. For purposes of this paragraph, "contiguous" means grade levels in sequence, regardless of whether schools operating as a combination school are on the same campus sharing facilities or at different locations. Beginning with the 2001-2002 school year, funds cannot be earned for more than one principal's salary for schools on the same campus sharing facilities unless the schools operate as a combination school as defined in this paragraph with separate facility codes issued by the Department of Education. A local school system shall earn funds in the midterm adjustment sufficient to pay the beginning salary of a principal for a new school, if not otherwise earning the funds, when the school has reported full-time equivalent program counts in the October count, has an approved new school facility code issued by the department, and has reported a principal on the October certified personnel information report under the new facility code. It is further provided that funds for the salary of a principal shall not be earned under this paragraph for an evening school or alternative school; and

(5) Each local system shall earn funding for one nurse for every 750 full-time equivalent students at the elementary school level and one nurse for every 1,500 full-time equivalent students at the middle and high school levels. Such funding shall have a ratio of one registered professional nurse to five licensed practical nurses. Such funding shall be based on a contract length of 180 days and shall be sufficient to pay 50 percent of the average salary and benefits, as determined by the Department of Education, for a registered professional nurse or for a licensed practical nurse; provided, however, that such amount shall be phased in so that, in Fiscal Year 2013, such amount shall be 40 percent and, in Fiscal Year 2014, such amount shall be 45 percent. Local school systems shall not be required to provide any local matching funds for school nurses to receive funds pursuant to this paragraph. Local school systems that do not meet

the minimum full-time equivalent student counts set out in this paragraph shall receive a base amount of funding. Each local school system shall expend 100 percent of the funds earned pursuant to this paragraph for salaries and benefits for school nurses.

(b) All program weights, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of a visiting teacher using a base size of 2,475 full-time equivalent students, for costs of operating an administrative office for certain local school systems as deemed warranted by the department, and for workers' compensation and employment security payments for personnel at the central office, school, and program levels, subject to appropriation by the General Assembly. Further, the program weights for all special education programs pursuant to Code Section 20-2-152, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of special education leadership personnel essential and necessary for the effective operation of such programs in a base size local school system. Further, the program weights for all programs, when multiplied by the base amount, shall reflect sufficient funds to pay the beginning salaries of school psychologists and psychometrists essential and necessary for the effective operation of such programs in a local school system using a base size of 2,475 full-time equivalent students, subject to appropriation by the General Assembly; provided, however, that beginning with Fiscal Year 2016, such base size shall be 2,420 full-time equivalent students.

(c) (For effective date, see note.) Notwithstanding any provision of this Code section to the contrary, no local system shall earn funds under this Code section, except for funds for nurses, accountants, visiting teachers, school psychologists, and secretaries, if the local board of education has not implemented in a failing school within the system the interventions, as defined in Code Section 20-14-41, that are prescribed by the State Board of Education. (Code 1981, § 20-2-186, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 847, § 5; Ga. L. 1993, p. 1667, § 2; Ga. L. 1995, p. 701, § 3; Ga. L. 2000, p. 618, § 29; Ga. L. 2012, p. 372, § 1/SB 403; Ga. L. 2013, p. 1061, § 14/HB 283; Ga. L. 2015, p. 92, § 4/SB 133.)

Delayed effective date. — Ga. L. 2015, p. 92, § 6(a)/SB 133, provides that the 2015 amendment becomes effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools. This Code section, as set out above, does not reflect the

amendment by that Act owing to the delayed effective date. If the amendment is approved, subsection (c) will read as follows: "Notwithstanding any provision of this Code section to the contrary, no local system shall earn funds under this Code section, except for funds for nurses, accountants, visiting teachers, school psychologists, and secretaries, if the local board of education has not implemented in a failing school within the system the

interventions, that are prescribed by the State Board of Education or the office pursuant to their respective authority.”.

The 2013 amendment, effective July 1, 2013, added the third sentence in paragraph (a)(4); in subsection (b), substituted “students, for costs of operating an administrative office for certain local school systems as deemed warranted by the department,” for “students and for costs of operating an administrative office for the local school system” in the first sentence,

and added the proviso at the end of the last sentence.

The 2015 amendment substituted “interventions, that are prescribed by the State Board of Education or the office pursuant to their respective authority” for “interventions, as defined in Code Section 20-14-41, that are prescribed by the State Board of Education” at the end of subsection (c). For effective date of this amendment, see the delayed effective date note.

20-2-190. Professional development centered on state-wide strategic initiatives.

(a) Subject to appropriations by the General Assembly, the State Board of Education shall provide professional development centered on state-wide strategic initiatives. Such strategic initiatives may include, but are not limited to, training on content standards, support for under-performing educators, and mentoring programs in specific subject areas.

(b) It is the intention of the General Assembly that:

(1) For Fiscal Year 2014, an amount equivalent to 0.15 percent of salaries of all certificated professional personnel, including school level administrators, used in the development of each respective program weight be appropriated to the State Board of Education for purposes of funding state-wide strategic initiatives for professional development, as provided in subsection (a) of this Code section; and

(2) For Fiscal Year 2015 and thereafter, an amount equivalent to 0.25 percent of salaries of all certificated professional personnel, including school level administrators, used in the development of each respective program weight be appropriated to the State Board of Education for purposes of funding state-wide strategic initiatives for professional development, as provided in subsection (a) of this Code section. (Code 1981, § 20-2-190, enacted by Ga. L. 2012, p. 355, § 3/SB 404; Ga. L. 2015, p. 1376, § 17/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards”

for “the new common core curriculum” near the end of subsection (a).

PART 6

EMPLOYMENT

Subpart 1

Certificated Professional Personnel

20-2-200. Regulation of certificated professional personnel by Professional Standards Commission; rules and regulations; fees.

(a) The Professional Standards Commission shall provide, by regulation, for certifying and classifying all certificated professional personnel employed in the public schools of this state, including personnel who provide virtual instruction to public schools of this state, whether such personnel are located within or outside of this state or whether such personnel are employed by a local unit of administration. No such personnel shall be employed in the public schools of this state unless they hold certificates issued by the commission certifying their qualifications and classification in accordance with such regulations. The commission shall establish such number of classifications of other certificated professional personnel as it may find reasonably necessary or desirable for the operation of the public schools; provided, however, that such classifications shall be based only upon academic, technical, and professional training, experience, and competency of such personnel. The commission is authorized to provide for denying a certificate to an applicant, suspending or revoking a certificate, or otherwise disciplining the holder of a certificate for good cause after an investigation is held and notice and an opportunity for a hearing are provided the certificate holder or applicant in accordance with subsection (d) of Code Section 20-2-984.5. The commission shall designate and define the various classifications of professional personnel employed in the public schools of this state that shall be required to be certificated under this Code section or under Code Section 20-2-206. Without limiting the generality of the foregoing, the term “certificated professional personnel” is defined as all professional personnel certificated by the commission and county or regional librarians.

(b)(1) The Professional Standards Commission shall establish rules and regulations for appropriate requirements and procedures to ensure high-quality certification standards for all Georgia educators while facilitating the interstate mobility of out-of-state certified educators.

(2) Requirements established for initial certification applicants new to the profession, to include out-of-state program completers with or without certificates and with no teaching experience, may

include, but are not limited to, demonstrated satisfactory proficiency in the following: a test of broad general knowledge; a test of specific subject matter content or other professional knowledge appropriate to the applicant's field of certification; computer skill competency; standards of ethical conduct; and coursework in the identification and education of children who have special educational needs; provided, however, that this paragraph shall not be construed to apply to alternative certification requirements as provided in Code Section 20-2-206.

(3) Requirements established for holders of valid, professional out-of-state certificates applying for their first Georgia certificate may include, but are not limited to the following: computer skill competency; coursework in the identification and education of children who have special educational needs; recency of study; and standards of ethical conduct. These requirements may be completed during the validity period of the first Georgia certificate. At the time of application for the first Georgia certificate, satisfactory proficiency in subject matter content appropriate to the applicant's field of certification may be determined based on Professional Standards Commission approved tests or combinations of successful teaching experience and academic, technical, and professional preparation as outlined in rules of the Professional Standards Commission.

(4) Requirements for certification renewal shall be established to foster ongoing professional learning, enhance student achievement, and verify standards of ethical conduct; provided, however, that from July 1, 2010, through June 30, 2017, no professional learning requirements shall be required for certificate renewal for clear renewable certificates for certificated personnel or for certificate renewal for paraprofessionals. Such requirements may include, but are not limited to, professional learning related to school improvement plans or the applicant's field of certification and background checks. Should the Professional Standards Commission include a requirement to demonstrate computer skill competency, the rules and regulations shall provide that a certificated educator may elect to meet the requirement by receiving satisfactory results on a test in basic computer skill competency. If a certificated educator elects to take such test pursuant to this paragraph, the local school system by which such educator is employed shall make available the opportunity to take the test on site at the school in which the educator is assigned. Each principal shall identify an administrator on site at each school to serve as a proctor for individuals taking the test pursuant to this paragraph. Individuals holding a valid Georgia life certificate or a valid National Board for Professional Teaching Standards certificate shall be deemed to have met state renewal requirements except those related to background checks.

(4.1) Prior to July 1, 2017, the Professional Standards Commission shall revise its certification renewal rules established pursuant to paragraph (4) of this subsection, to require demonstration of the impact of professional learning on educator performance and student learning for purposes of certification renewal. Such revised rules shall be effective beginning July 1, 2017. As part of the revision process, the Professional Standards Commission shall establish a task force to determine the level of evidence necessary for educators to demonstrate the impact of professional learning and how such evidence will be collected and submitted for purposes of certificate renewal.

(5) Requirements designating approved in-field assignment standards appropriate to the applicant's field of certification shall be established to ensure that educators are assigned to those areas for which they are properly prepared. These standards may be determined based on reviews of state approved curriculum courses, state approved preparation programs, and designated certificate fields.

(c) An individual who has received any combination of two unsatisfactory, ineffective, or needs development annual summative performance evaluations in the previous five-year period pursuant to Code Section 20-2-210 shall not be entitled to a renewable certificate prior to demonstrating that such performance deficiency has been satisfactorily addressed, but such individual may apply to the commission for a nonrenewable certificate, as defined by the commission. Each local school system and charter school shall report all unsatisfactory, ineffective, and needs development ratings of all performance evaluations as provided in Code Section 20-2-210 for certificated personnel in their employ in a manner, format, and frequency determined by the commission. The commission is authorized to release such data provided it cannot be personally identifiable to any currently or formerly certificated person.

(d) No applicant who is under review by the commission shall be allowed to withdraw his or her application for a certificate, permit, or other certification document without the written consent of the commission. The commission shall retain its authority over those applicants to proceed with the denial of the certificate, permit, or other certification document upon any ground provided by law, or to enter an order denying the certificate, permit, or other certification document upon any ground provided by law. The suspension or expiration of any certificate, permit, or certification document, or its surrender without the written consent of the commission, shall not deprive the commission of its authority to do any of the following:

(1) Institute or continue a disciplinary proceeding against the holder of a certificate, permit, or other certification document upon any ground provided by law;

- (2) Enter an order suspending or revoking the certificate, permit, or other certification document; or
- (3) Issue an admonition to the holder of a certificate, permit, or other certification document.

(e)(1) The Professional Standards Commission shall charge the following fees to persons who file applications with the commission under its regulations adopted pursuant to the authority of this Code section:

(A) For an applicant for initial certification who is not currently employed in Georgia public or private schools	\$ 20.00
(B) For an applicant for initial certification who is not a graduate of an accredited education program from a Georgia college or university	20.00
(C) For an applicant for a higher certificate when the applicant then holds a Georgia certificate but who is not currently employed in Georgia public or private schools	20.00
(D) For an applicant for a certificate which adds a field or which endorses a certificate but who is not currently employed in Georgia public or private schools	20.00
(E) For an applicant for a conditional certificate ..	20.00
(F) For an applicant for the renewal of any certificate if the applicant is not currently employed by a public or private school in Georgia	20.00
(G) For evaluating transcripts where certificates are not issued and for issuing duplicate copies of certificates	20.00
(H) For an applicant for a clearance certificate pursuant to Code Section 20-2-211.1 who is not currently employed in Georgia public or private schools or who is not a graduate of an accredited education program from a Georgia college or university	20.00

(2) The fees provided for in paragraph (1) of this subsection shall be paid by an applicant by cashier’s check, money order, credit card, debit card, or other method as approved by the Professional Standards Commission as a condition for filing the application.

(3) The fees provided for in this subsection shall be paid by the commission into the general funds of the state. The commission shall adopt regulations to carry out the provisions of this subsection.

(f) As used in this part, unless the context indicates otherwise, the term “commission” means the Professional Standards Commission established under Part 10 of Article 17 of this chapter. (Code 1981, § 20-2-200, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1735, § 1; Ga. L. 1989, p. 1806, § 1; Ga. L. 1990, p. 1312, § 1; Ga. L. 1990, p. 1339, § 1; Ga. L. 1990, p. 1487, §§ 1, 2; Ga. L. 1991, p. 94, § 20; Ga. L. 1991, p. 1546, § 4; Ga. L. 1992, p. 2365, § 1; Ga. L. 1994, p. 801, § 1; Ga. L. 2000, p. 521, §§ 1, 2; Ga. L. 2000, p. 618, § 30; Ga. L. 2002, p. 397, § 1; Ga. L. 2003, p. 398, § 1; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2006, p. 534, § 1/HB 972; Ga. L. 2007, p. 259, § 3/SB 72; Ga. L. 2010, p. 237, §§ 1, 1D/HB 1079; Ga. L. 2010, p. 258, § 1/HB 1307; Ga. L. 2011, p. 511, § 1/HB 285; Ga. L. 2013, p. 1091, § 1/HB 244; Ga. L. 2015, p. 5, § 20/HB 90; Ga. L. 2015, p. 843, § 1/HB 164; Ga. L. 2015, p. 1376, § 18/HB 502.)

The 2013 amendment, effective July 1, 2014, in subsection (c), in the first sentence, substituted “any combination of two unsatisfactory, ineffective, or needs development annual summative performance evaluations” for “two unsatisfactory annual performance evaluations” near the beginning, and added “, as defined by the commission” at the end, and added the second and third sentences. See editor’s note for applicability.

The 2015 amendments. — The first 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, substituted “coursework” for “course work” in paragraphs (b)(2) and (b)(3). The second 2015 amendment, effective July 1, 2015, substituted “June 30, 2017” for “July 1, 2015” in the

middle of the first sentence of paragraph (b)(4); and substituted “July 1, 2017” for “July 1, 2015” in the first and second sentences of paragraph (b)(4.1). The third 2015 amendment, effective July 1, 2015, added “, including personnel who provide virtual instruction to public schools of this state, whether such personnel are located within or outside of this state or whether such personnel are employed by a local unit of administration” to the end of the first sentence in subsection (a).

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

20-2-201.1. Professional Learning Rules Task Force; composition; recommendation of professional learning rules.

Repealed by Ga. L. 2012, p. 1037, § 1/SB 184, effective July 1, 2015.

Editor’s notes. — This Code section was based on Ga. L. 2012, p. 1037, § 1/SB 184.

20-2-204. Paraprofessional and permitted personnel; classification of all certified or permitted personnel.

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers' equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, *inter alia*, "teachers" and

"paraprofessionals" were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

Subpart 2

Conditions of Employment

20-2-210. Annual performance evaluation.

(a) All personnel employed by local units of administration, including school superintendents, shall have their performance evaluated annually by appropriately trained evaluators. All such performance evaluation records shall be part of the personnel evaluation file and shall be confidential as provided pursuant to subsection (e) of this Code section. In the case of local school superintendents, such evaluations shall be performed by the local board of education. The state board may provide a model annual evaluation instrument for each classification of professional personnel certificated by the Professional Standards Commission. Unless otherwise provided by law, local units of administration are authorized to use the models developed by the State Board of Education.

(b)(1) No later than the 2014-2015 school year, each local school system and all charter schools shall implement an evaluation system as adopted and defined by the State Board of Education for elementary and secondary school teachers of record, assistant principals, and principals. The evaluation system shall be developed by the department in consultation with stakeholders, such as teachers and principals. The evaluation system shall use multiple measures, prioritizing growth in student achievement. For purposes of the evaluation system established pursuant to this subsection, the state board shall define and designate teachers of record, assistant principals, and principals.

(2) Teachers of record, assistant principals, and principals shall be evaluated using multiple, rigorous, and transparent measures. Beginning with the 2014-2015 school year, teachers of record, assistant

principals, and principals shall be given written notice in advance of the school year of the evaluation measures and any specific indicators that will be used to evaluate them. Evaluation measures shall include the following elements:

(A) For teachers of record who teach courses that are subject to annual state assessments aligned with state standards and the principals and assistant principals of elementary or secondary schools that are subject to such assessments, growth in student achievement on such assessments shall count for at least 50 percent of the evaluation, using the student growth and academic achievement measures identified in the evaluation system;

(B) For teachers of record who teach courses not subject to annual state assessments, growth in student achievement shall be assessed through measures of student achievement growth developed at the school system level and approved by the Department of Education. When sufficient data becomes available from the department to calculate student achievement growth measures, such measures of student achievement growth shall count for at least 50 percent of the evaluation, using student growth and academic achievement measures developed by the school system in a process approved by the State Board of Education;

(C) For teachers of record, the annual evaluation shall also include multiple additional measures that shall be correlated with impacts on student achievement results. These measures shall include multiple classroom observations each year by appropriately trained and credentialed evaluators, using clear, consistent observation rubrics, and supplemented by other measures aligned with student achievement, including student perception data and documentation of practice; and

(D) For assistant principals and principals, the annual evaluation shall also include multiple additional measures that shall be aligned with impacts on student achievement results. These measures shall include multiple school observations each year by appropriately trained and credentialed evaluators. When sufficient data becomes available from the department to calculate performance measures, these measures shall also include the principal's ability to attract and retain highly effective teachers, effectively manage the school, and establish a positive climate for learning, and other measures aligned with student achievement for students in all subgroups.

(3) The evaluation system adopted by the State Board of Education shall give every teacher of record, assistant principal, and principal one of four rating levels that are designated as "Exemplary,"

“Proficient,” “Needs Development,” or “Ineffective,” as further defined by the State Board of Education. A rating of “Ineffective” shall constitute evidence of incompetency as provided by paragraph (1) of subsection (a) of Code Section 20-2-940.

(4) All teachers of record, assistant principals, and principals shall have a pre-evaluation conference, midyear evaluation conference, and a summative evaluation conference, in accordance with state board rules. All teachers of record, assistant principals, and principals shall be notified of and have access to the results of the annual summative performance evaluation and any formative observations conducted throughout the school year pursuant to this subsection within five working days of such evaluation or observations. A teacher of record, assistant principal, or principal, or an evaluator of any such individuals, may request a conference within ten working days of notice of results of a formative observation and such conference shall be provided within ten working days of the request. Conferences shall include the individual being evaluated, his or her supervisor, and the evaluator, unless otherwise agreed upon.

(5) In order to ensure proper implementation of the evaluation system developed pursuant to this Code section, the Department of Education shall:

(A) Establish processes and requirements to determine the teacher of record for purposes of assigning student achievement scores to a teacher in evaluating the teacher’s performance;

(B) Establish processes for roster verification and student teacher linkages in order to assign the student’s achievement scores to the teacher for the purposes of evaluating the teacher’s performance;

(C) Establish minimum training and credentialing requirements for evaluators of teachers and principals; and

(D) Provide data systems to support the professional growth of teachers and leaders and facilitate human capital management.

(c)(1) Except as otherwise provided in Code Section 20-2-948, local school systems shall base decisions regarding retention, promotion, compensation, dismissals, and other staffing decisions, including transfers, placements, and preferences in the event of reductions in force, primarily on the results of the evaluations developed as required by this subsection. Such evaluation results shall also be used to provide high-quality, job embedded, and ongoing mentoring, support, and professional development for teachers, assistant principals, and principals, as appropriate, aligned to the teacher’s, assistant principal’s, or principal’s needs as identified in his or her evaluation.

(2) A teacher or other certificated professional personnel's salary increase or bonus that is based in whole or in part on an evaluation which included student assessment results, standardized test scores, or standardized test answers that were falsified by such teacher or professional or known or caused by such teacher or professional to have been falsified shall be automatically forfeited. A teacher or other certificated professional personnel shall forfeit his or her right or interest in such salary increase or bonus and shall be liable for the repayment of any and all amounts previously paid to him or her based, in whole or in part, on the results of falsified student assessment results, falsified standardized test scores, or falsified standardized test answers.

(d) The superintendent of each local school system shall identify an appropriately trained evaluator for each person employed by the local unit of administration for the purposes of completing an annual evaluation as required by this Code section. The superintendent of each local school system shall be responsible for ensuring compliance with this Code section.

(e)(1) All records, including surveys and evaluation instruments, associated with individual performance evaluations conducted pursuant to this Code section shall be confidential and not subject to public disclosure. Each local school system and charter school shall report performance data to the Georgia Department of Education in a format approved by the State Board of Education. The department is authorized to release performance data, except to the extent it is personally identifiable to any public school employee.

(2) Any current or former public school employee may execute a release authorizing the release of his or her individual performance data to a third party.

(3) The department may by agreement share individual data with the Office of Student Achievement for the purposes of improving postsecondary educator preparation so long as the office agrees that it will not disclose personally identifiable information about any public school employee.

(f) The State Board of Education is authorized to promulgate rules and regulations to carry out the provisions of this Code section. (Code 1981, § 20-2-210, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 9; Ga. L. 1991, p. 1546, § 4; Ga. L. 1995, p. 1072, § 1; Ga. L. 1999, p. 438, § 3; Ga. L. 2000, p. 618, § 32; Ga. L. 2012, p. 111, § 1/HB 692; Ga. L. 2012, p. 358, § 9/HB 706; Ga. L. 2013, p. 1091, § 2/HB 244.)

The 2013 amendment, effective July 1, 2014, rewrote this Code section. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General

Assembly, provides: "This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015."

20-2-211. Annual contract; disqualifying acts; job descriptions.

(a) All teachers, principals, other certificated professional personnel, and other personnel of a local unit of administration shall be employed and assigned by its governing board on the recommendation of its executive officer. Minimum qualifications for employment of all personnel may be prescribed by the State Board of Education unless otherwise provided by law. Employment contracts of teachers, principals, and other certificated professional personnel shall be in writing, and such contracts shall be signed in duplicate by such personnel on their own behalf and by the executive officer of the local unit of administration on behalf of its governing board.

(b) Any other provisions of this article or any other laws to the contrary notwithstanding, each local governing board shall, by not later than May 15 of the current school year, tender a new contract for the ensuing school year to each teacher and other professional employee certificated by the Professional Standards Commission on the payroll of the local unit of administration at the beginning of the current school year, except those who have resigned or who have been terminated as provided in Part 7 of Article 17 of this chapter, or shall notify in writing each such teacher or other certificated professional employee of the intention of not renewing his or her contract for the ensuing school year. Such contracts when tendered to each teacher or other professional employee shall be complete in all terms and conditions of the contract, including the amount of compensation to be paid to such teacher or other professional employee during the ensuing school year, and shall not contain blanks or leave any terms and conditions of the contract open. A letter of intent or similar document shall not constitute a contract and shall not be construed to require or otherwise legally bind the teacher or other professional employee to return to such school system. Upon request, a written explanation for failure to renew such contract shall be made available to such certificated personnel by the executive officer. When such notice of intended termination has not been given by May 15, the employment of such teacher or other certificated professional employee shall be continued for the ensuing school year unless the teacher or certificated professional employee elects not to accept such employment by notifying the local governing board or executive officer in writing not later than June 1.

(c) Any other provisions of this article or any other laws to the contrary notwithstanding, no local governing board shall employ any

person as a teacher who has been discharged from the armed forces of the United States with a dishonorable discharge as a result of desertion or any person who has fled or removed himself from the United States for the purpose of avoiding or evading military service in the armed forces of the United States, excluding those who have been fully pardoned.

(d) Each local school system shall have a job description for each certificated professional personnel classification, shall have policies and procedures relative to the recruitment and selection of such personnel, and shall adhere to such recruitment and selection policies and procedures. Such policies and procedures shall assure nondiscrimination on the basis of sex, race, religion, or national origin. Such policies and procedures shall also include the announcement in writing of the availability of all certificated positions within the local school system and the submission of such available positions to a state-wide online job data base maintained by the state. (Code 1981, § 20-2-211, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1991, p. 1546, § 4; Ga. L. 1994, p. 1936, § 1; Ga. L. 1995, p. 1072, § 2; Ga. L. 1997, p. 1390, § 1; Ga. L. 2000, p. 618, §§ 33, 34; Ga. L. 2003, p. 499, § 1; Ga. L. 2009, p. 4, § 1/HB 455; Ga. L. 2010, p. 2, § 1/HB 906; Ga. L. 2010, p. 237, § 1A/HB 1079; Ga. L. 2011, p. 647, § 6/HB 192; Ga. L. 2013, p. 1061, § 15/HB 283; Ga. L. 2013, p. 1091, § 3/HB 244.)

The 2013 amendments. — The first 2013 amendment, effective July 1, 2013, in subsection (d), in the third sentence, deleted “to the appropriate colleges and universities in the state and to the Department of Education and” following “certificated positions”, added “and the submission of such available positions to a state-wide online job data base maintained by the state” at the end, and deleted the former last sentence, which read: “A local board of education may also announce such positions to colleges and universities in other states.” The second 2013 amendment, effective July 1, 2014, in subsection (b), in the first sentence, substituted “May 15” for “April 15”, and deleted “; provided, however, that for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only, each local

governing board shall have until May 15 of the current school year to tender such new contracts or provide such written notice” following “ensuing school year”, and, in the last sentence, deleted “April 15, or by” preceding “May 15”, deleted “for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only” near the middle, deleted “May 1, or by” preceding “June 1” and deleted “for school years 2010-2011, 2011-2012, 2012-2013, 2013-2014, and 2014-2015 only” at the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers’ equal protection claims failed because: (1) the

school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be

retained since, inter alia, “teachers” and “paraprofessionals” were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection

claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

20-2-211.1. Clearance certificates issued by the Professional Standards Commission relating to fingerprint and criminal background checks.

(a) As used in this Code section, the term:

(1) “Clearance certificate” means a certificate issued by the Professional Standards Commission that verifies that an educator has completed fingerprint and criminal background check requirements as specified in this Code section and that the individual does not have a certificate that is currently revoked or suspended in Georgia or any other state; provided, however, that additional fingerprinting shall not be required for renewal of a clearance certificate or for educators who possess a professional educator certificate as of January 1, 2011. A clearance certificate shall be a renewable certificate valid for five years. Clearance certificates shall be subject to fees in accordance with subsection (e) of Code Section 20-2-200.

(2) “Educator” means a teacher, school or school system administrator, or other education personnel who would, if not exempted pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter, be required to hold a professional educator certificate, license, or permit issued by the Professional Standards Commission and persons who have applied for but have not yet received such a certificate, license, or permit.

(3) “Local unit of administration” shall have the same meaning as in Code Section 20-2-242 and shall also include state chartered special schools and state charter schools.

(4) “Professional educator certificate” means a certificate, license, or permit issued by the Professional Standards Commission that is based upon academic, technical, and professional training, experience, and competency of such personnel as provided for under Code Section 20-2-200.

(b)(1) On and after January 1, 2011, all educators employed by a local unit of administration shall hold a valid clearance certificate; provided, however, that an educator who possesses a professional educator certificate as of January 1, 2011, shall not be required to obtain a clearance certificate until his or her professional educator certificate is up for renewal. A local unit of administration may

employ an educator who does not already hold a valid clearance certificate, provided the individual has applied for a clearance certificate, for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check and issuance of the clearance certificate. The requirements of this Code section shall be in addition to professional educator certificate requirements unless such educator is employed by a school which is exempt from teacher certification requirements pursuant to a charter under Article 31 or 31A of this chapter or an increased flexibility contract under Article 4 of this chapter.

(2) Any other Code sections to the contrary notwithstanding, educators holding a valid clearance certificate shall be subject to the code of ethics for educators as established pursuant to Code Section 20-2-984.1 and shall be subject to Code Sections 20-2-984, 20-2-984.2, 20-2-984.3, 20-2-984.4, and 20-2-984.5.

(c) A local unit of administration shall ensure that all personnel employed by such local unit of administration after January 1, 2011, shall be fingerprinted and have a criminal record check performed. The local unit of administration shall have the authority to employ such person for a maximum of 20 days in order to allow for the receipt of the results of the criminal record check. The local unit of administration shall adopt policies to provide for the subsequent criminal record checks of personnel continued in employment in the local unit of administration.

(d)(1) Local units of administration shall have the authority and responsibility to order criminal record checks pursuant to this Code section through the Georgia Crime Information Center and the Federal Bureau of Investigation and shall have the authority to receive the results of such criminal record checks. Local units of administration shall also have the authority to forward the results of criminal record checks to the Professional Standards Commission as necessary regarding potential violations of the code of ethics for educators. The Professional Standards Commission shall also have the authority to order criminal record checks pursuant to this Code section through the Georgia Crime Information Center and the Federal Bureau of Investigation and shall have the authority to receive the results of such criminal record checks.

(2) Fingerprints shall be in such form and of such quality as shall be acceptable for submission to the Georgia Crime Information Center and the Federal Bureau of Investigation. It shall be the duty of each law enforcement agency in this state to fingerprint those persons required to be fingerprinted by this Code section.

(e) At the discretion of local units of administration, fees required for a criminal record check by the Georgia Crime Information Center or the

Federal Bureau of Investigation shall be paid by the local unit of administration or by the individual seeking employment or making application to the Professional Standards Commission.

(f) The Professional Standards Commission is authorized to adopt rules and regulations necessary to carry out the provisions of this Code section. (Code 1981, § 20-2-211.1, enacted by Ga. L. 2010, p. 237, § 1B/HB 1079; Ga. L. 2011, p. 511, § 3/HB 285; Ga. L. 2013, p. 1061, § 16/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “state charter schools” for “commission charter schools” in paragraph (a)(3).

20-2-212. Salary schedules.

(a) The State Board of Education shall establish a schedule of minimum salaries for services rendered which shall be on a ten-month basis and which shall be paid by local units of administration to the various classifications of professional personnel required to be certificated by the Professional Standards Commission. The minimum salary schedule shall provide a minimum salary base for each classification of professional personnel required to be certificated; shall provide for increment increases above the minimum salary base of each classification based upon individual experience and length of satisfactory service; and shall include such other uniformly applicable factors as the state board may find relevant to the establishment of such a schedule. The minimum salary base for certificated professional personnel with bachelor's degrees and no experience, when annualized from a ten-month basis to a 12 month basis, shall be comparable to the beginning salaries of the recent graduates of the University System of Georgia holding bachelor's degrees and entering positions, excluding professional educator teaching positions, in Georgia having educational entry requirements comparable to the requirements for entry into Georgia public school teaching. The placement of teachers on the salary schedule shall be based on certificate level and years of creditable experience, except that a teacher shall not receive credit for any year of experience in which the teacher received an unsatisfactory or ineffective annual summative performance evaluation or for the second year in which a teacher receives two consecutive annual summative needs development ratings pursuant to Code Section 20-2-210. The General Assembly shall annually appropriate funds to implement a salary schedule for certificated professional personnel. For each state fiscal year, the state board shall adopt the salary schedule for which funding has been appropriated by the General Assembly. A local unit of administration shall not pay to any full-time certificated professional employee a salary less than that prescribed by the schedule of minimum salaries, except as required by this Code section; nor shall a local

unit of administration pay to any part-time certificated professional employee less than a pro rata portion of the respective salary prescribed by the schedule of minimum salaries, except as required by this Code section. For purposes of this subsection, an educator's placement on the salary schedule shall not be based on a leadership degree, which shall mean a degree earned in conjunction with completion of an educator leadership preparation program approved by the Professional Standards Commission, unless the educator is employed in a leadership position as defined by the State Board of Education, but shall be placed on the salary schedule position attributable to the educator but for the leadership degree; provided, however, that this shall not apply, regardless of whether or not he or she is in a leadership position, to:

(1) An educator who possessed a leadership degree prior to July 1, 2010; or

(2) An educator who possessed:

(A) A master's level leadership degree prior to July 1, 2012;

(B) An education specialist level leadership degree prior to July 1, 2013; or

(C) A doctoral level leadership degree prior to July 1, 2014, so long as he or she was enrolled in such leadership preparation program on or before April 1, 2009.

(b) Local units of administration may supplement the salaries of personnel subject to the schedule of minimum salaries under subsection (a) of this Code section and, in fixing the amount of those supplements, may take into consideration the nature of duties to be performed, the responsibility of the position held, the subject matter or grades to be taught, and the experience and performance of the particular employee whose salary is being supplemented. In any fiscal year in which such personnel receive an increase under the minimum salary schedule, a local unit of administration shall not decrease any local salary supplement for such personnel below the local supplement amount received in the immediately preceding fiscal year by those personnel of that local unit of administration unless such local unit of administration has conducted at least two public hearings regarding such decrease, notice of which hearings, including the time, place, agenda, and specific subject matter of the meeting, the local unit shall cause to be published in the legal organ of the county which is the legal situs of such local unit one time at least seven days prior to the date such hearings are to be held. Written notice shall be provided to each employee subject to the schedule of minimum salaries under subsection (a) of this Code section at least seven days prior to the date of the hearings. Each such hearing shall be held and shall commence after school hours to allow certificated and noncertificated personnel to attend.

(c) A local unit of administration shall pay beginning classroom teachers the first salary payment for the number of days worked at the end of the first month of the school year in which service is rendered. The State Board of Education shall develop rules and procedures for implementing this subsection by July 1, 2001. (Code 1981, § 20-2-212, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 10; Ga. L. 1991, p. 1546, § 4; Ga. L. 1994, p. 782, § 1; Ga. L. 2000, p. 618, § 35; Ga. L. 2001, p. 1096, § 1; Ga. L. 2006, p. 469, § 1/HB 1483; Ga. L. 2009, p. 4, § 1B/HB 455; Ga. L. 2010, p. 426, § 1/HB 923; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2013, p. 1091, § 4/HB 244.)

The 2013 amendment, effective July 1, 2014, in subsection (a), in the fourth sentence, inserted “or ineffective annual summative” near the middle, and added “or for the second year in which a teacher receives two consecutive annual summative needs development ratings pursuant to Code Section 20-2-210” at the end. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

JUDICIAL DECISIONS

Equal protection of teachers and paraprofessionals. — Elementary school orchestra and band teachers’ equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, inter alia, “teachers” and

“paraprofessionals” were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

20-2-214.1. High Performance Principals program.

(a) The General Assembly finds that the driving force behind attracting quality teachers to a school and creating a culture of learning and respect in the school environment is the school leadership, and particularly, the school principal. The General Assembly further finds that teachers consider school leadership as one of the most important factors in creating good working conditions in a school environment. The General Assembly further finds that a school with strong leadership and teachers will be the most effective in improving and maintaining the academic success of its students.

(b) Reserved.

(c) The State Board of Education is authorized to establish a grant program to attract proven leaders in school settings to accept positions as principals in secondary schools in this state that have received

unacceptable ratings by the State Board of Education, as defined in state board rules relating to the accountability system. For purposes of this Code section, these individuals shall be known as High Performance Principals. The grant program shall include funding, subject to appropriations by the General Assembly, for grants from the state board to local boards of education for salary supplements for High Performance Principals.

(d) The state board is authorized to develop rules and regulations to implement the grant program, including requiring reports, data, or other measures of accountability. The grant program shall provide that the sole criteria for designating and selecting individuals as High Performance Principals shall be data based evidence of the effectiveness of a proposed High Performance Principal in improving a low performing school or in taking an average or excellent performing school to higher achievement within the last five years. Notwithstanding this, the state board shall have the discretion, only in extenuating circumstances, to consider other criteria. The state board shall be authorized to establish and maintain a nonexclusive pool of preapproved eligible candidates for High Performance Principals for consideration by local school systems.

(e) An individual selected as a High Performance Principal shall be eligible for a one-year salary supplement, in an amount as determined by the state board and subject to appropriations by the General Assembly. An individual grant shall not exceed \$15,000.00 per year and such amount shall be awarded pursuant to state board rule based on the relative recruitment need of that school. The local school system may apply for up to two additional school years for renewal of the High Performance Principal designation for an individual, subject to appropriation. An individual selected as a High Performance Principal shall be required to enter into a contract with the local board, in accordance with Code Section 20-2-211, which shall include terms and conditions relating to the designation of High Performance Principal, as required by the state board. An individual shall be required to reimburse the local board for any moneys paid to him or her relating to the High Performance Principal designation if he or she does not comply with the terms of the contract relating to the High Performance Principal designation.

(f) The local board shall be required to submit reports, as required by the state board, which quantify the effectiveness of an individual designated as a High Performance Principal and his or her impact on the improvement of the school in the school year in which he or she was designated a High Performance Principal. The state board shall use the data in the reports as the primary factor in evaluating applications for renewal of a High Performance Principal designation, as provided for in subsection (e) of this Code section.

(g) Salary supplements received by a High Performance Principal pursuant to this Code section shall not be considered regular or earnable compensation for any purpose.

(h) Nothing in this Code section shall prohibit local boards of education from providing additional salary supplements and bonuses to any principal designated as a High Performance Principal. (Code 1981, § 20-2-214.1, enacted by Ga. L. 2006, p. 179, § 1/SB 468; Ga. L. 2013, p. 1061, § 17/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted the present provisions of subsection (b) for the former provisions, which read: “For purposes of this Code section, the term ‘Needs Improvement School’ means a school that has not made adequate yearly progress for two or more consecutive years in the same subject, in accordance with the accountability

system established pursuant to Article 2 of Chapter 14 of this title.”; substituted “received unacceptable ratings” for “been identified as a Needs Improvement School” in the first sentence of subsection (c); and substituted “school” for “Needs Improvement School” at the end of the second sentence of subsection (e).

20-2-217. Professional and staff development stipends.

The State Board of Education is authorized and directed to devise a program to provide professional and staff development stipends sufficient to allow eligible licensed personnel, paraprofessionals, and aides to participate in development programs which will enable such employees to increase their education pertaining to their job classification or to obtain appropriate degrees to become certified teachers. Such stipends shall be provided to individuals on a reimbursable basis on a state approved schedule. The State Board of Education shall be authorized to require the local professional and staff development plan to include professional and staff development for licensed personnel, paraprofessionals, aides, and education secretaries before state funding for the purposes of this Code section will be made available to a local system. As used in this Code section, the term “paraprofessional” shall be defined as provided in Code Section 20-2-204. (Code 1981, § 20-2-217, enacted by Ga. L. 1990, p. 1254, § 1; Ga. L. 1991, p. 1546, § 4; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, deleted

“required under Code Section 20-2-232” following “development plan” in the third sentence.

PART 7

STAFF DEVELOPMENT

20-2-230. Programs.

(a) All public school officials and professional personnel certificated by the Professional Standards Commission shall be provided the opportunity to continue their development throughout their professional careers. The primary purpose of the staff development sponsored or offered by local boards of education and the Department of Education shall be the implementation of this policy. Two additional purposes of such staff development programs shall be to adopt into general practice the findings of scientifically designed research which has been widely replicated, particularly as it relates to teacher and school effectiveness, and to address professional needs and deficiencies identified during the process of objective performance evaluations.

(b)(1) The State Board of Education shall adopt a training program for members of local boards of education by July 1, 2011. The State Board of Education may periodically adopt revisions to such training program as it deems necessary.

(2) Within three months of adoption by the State Board of Education of a training program pursuant to paragraph (1) of this subsection, each local board of education shall adopt a training program for members of such boards that includes, at a minimum, such training program and requirements established by the State Board of Education pursuant to paragraph (1) of this subsection. Each local board of education shall incorporate any revisions adopted by the State Board of Education to the training program pursuant to paragraph (1) of this subsection within three months of adoption of such revisions.

(3) All local boards of education are authorized to pay such board members for attendance at a required training program the same per diem as authorized by local or general law for attendance at regular meetings, as well as reimbursement of actual expenses for travel, lodging, meals, and registration fees for such training, either before or after such board members assume office. (Code 1981, § 20-2-250, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-230, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 612, § 12; Ga. L. 1991, p. 1546, § 5; Ga. L. 1995, p. 304, § 4; Ga. L. 1996, p. 821, § 2; Ga. L. 1997, p. 1453, § 1; Ga. L. 2010, p. 452, § 10/SB 84; Ga. L. 2013, p. 1061, § 18/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “boards of education” for “units of administration” in the second sentence of subsection (a); deleted “and

each governing board of other local units of administration” following “local board of education” in the first sentence of paragraph (b)(2); and substituted “local boards

of education are” for “boards of local units of administration are” near the beginning of paragraph (b)(3).

PART 8

STATE BOARD OF EDUCATION

20-2-241. State School Superintendent.

(a) The State School Superintendent shall be the executive officer of the State Board of Education and the administrative chief executive officer of the Department of Education. The State School Superintendent is authorized to organize and reorganize the Department of Education and the various offices, divisions, sections, and units thereof and to prescribe the duties, functions, and operations of each at such times and in such manner as the State School Superintendent deems necessary or desirable for the more economical or effective organization, administration, or functioning of the department. He or she shall also be responsible for the administration and enforcement of this article and other school laws in accordance with such laws and with rules, regulations, policies, and standards adopted or prescribed by the state board for the implementation, administration, or enforcement of such laws.

(b) The State School Superintendent shall have the authority to employ persons to serve in the five senior staff positions within the Department of Education.

(c) The State School Superintendent shall have the authority to enter into contracts for the amount of \$50,000.00 or less on behalf of the Department of Education. The State School Superintendent may delegate to the chief financial officer the authority to execute such contracts on behalf of the State School Superintendent. (Code 1981, § 20-2-231, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-241, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 1996, p. 167, § 3; Ga. L. 2015, p. 1376, § 19/HB 502.)

The 2015 amendment, effective July 1, 2015, added the second sentence to subsection (c).

20-2-242. Local school systems; local units of administration; local governing bodies.

The political subdivisions governed by county, independent, and area boards of education in this state established pursuant to law shall be known as “local school systems” for the purposes of this article, except where other specific provisions are made. All local school systems,

boards of control of regional educational service agencies established pursuant to Code Section 20-2-272, and any other local or regional public education agencies established pursuant to law shall be known as “local units of administration” for purposes of this article, except education agencies governed or regulated by boards of other state agencies or except where other specific provisions are made. The members and executive officers of local governing boards shall comply with, execute, and enforce all laws and all policies, rules, standards, and regulations adopted by the State Board of Education pursuant to this article in order to be eligible to receive state funds under this article. If a local board of education fails to comply with any provision of this article, compliance shall be enforced pursuant to Code Section 20-2-243. The qualifications, manner and time of selection, tenure, powers and duties, and state compensation, if provided for, shall be prescribed by law for all members and executive officers of local governing boards. Specifically, however, each local board of education shall be responsible for ensuring that:

(1) The instructional programs authorized pursuant to Part 3 of this article and the uniformly sequenced content standards authorized pursuant to Part 2 of this article are fully and effectively implemented;

(2) Locally adopted and offered enrichment programs, courses, and activities are properly planned, implemented, monitored, and evaluated to ensure the highest quality possible; and

(3) Information is distributed to the public on a continuing basis relative to the costs, quality, and performance of the system’s elementary and secondary schools. (Code 1981, § 20-2-232, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-242, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 2015, p. 1376, § 20/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “core curriculum” in paragraph (1).

20-2-244. Waiver requests by local school boards; requirements for application for waiver; period of waiver; blanket waivers.

(a) The State Board of Education is authorized to waive specifically identified state rules, regulations, policies, and procedures, or provisions of this chapter, upon the request of a local school board and in accordance with this Code section. The goal for each waiver shall be improvement of student performance.

(b) The State Board of Education is not authorized to waive any federal, state, and local rules, regulations, court orders, and statutes

relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or Chapter 14 of this title; the requirements of Code Section 20-2-210; the requirements of Code Section 20-2-211.1; or the requirements in subsection (c) of Code Section 20-2-327. A school or school system that has received a waiver shall remain subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133, and shall remain open to enrollment in the same manner as before the waiver request.

(c) The provisions of this Code section shall not apply to charter schools.

(d) The board shall require a written application for a waiver that shall include, at a minimum:

(1) Identification of the specific state rules, regulations, policies, and procedures, or provisions of this chapter that are requested for waiver;

(2) A description of the policies and procedures the school or school system shall substitute for the waived state rules, regulations, policies, and procedures, or provisions;

(3) A description of how the proposed waiver will improve student performance;

(4) A description of the students who will be affected by the proposed waiver, including their estimated number, current performance, grade level, and any common demographic traits;

(5) A list of schools by name that will be affected by the proposed waiver, and a description of each school, including current performance, grade levels, and demographic traits of the students of each such school;

(6) Methods for collection of data, and for measuring and evaluating any change in student performance resulting from the proposed waiver;

(7) The period of time for which the proposed waiver is requested and the proposed starting date; and

(8) A resolution from the local school board approving the waiver request.

(e) The State Board of Education may grant or deny a waiver request, or grant a waiver request subject to specified modifications in the waiver request.

(f) A waiver may be granted in accordance with this Code section for any period of time not to exceed five years. The State Board of Education shall require reports regarding the effect of the waiver at least annually, and may require more frequent reports if necessary to monitor the effect of the waiver effectively. The State Board of Education shall report annually to the General Assembly regarding the waivers granted, the effect of each waiver, and any recommendations for legislative changes generated by successful waivers.

(g) On and after July 1, 2008, except as provided for in subsection (h) of this Code section, the State Board of Education shall not authorize any waivers or variances pursuant to this Code section to any local school system for the following:

- (1) Class size requirements in Code Section 20-2-182; provided, however, that the state board shall be authorized to waive class size requirements pursuant to this Code section on and after July 1, 2008, in the event that a local school system can demonstrate a hardship pursuant to a waiver request;
- (2) Expenditure controls in Code Section 20-2-171 and categorical allotment requirements in Article 6 of this chapter;
- (3) Certification requirements in Code Section 20-2-200; or
- (4) Salary schedule requirements in Code Section 20-2-212.

A local school system which has received a waiver or variance pursuant to this Code section prior to entering into a contract pursuant to Article 4 of this chapter shall be required to include such waiver or variance in such contract.

(h) The State Board of Education shall be authorized to provide a blanket waiver or variance of the class size requirements in Code Section 20-2-182 for all local school systems for a specified school year in the event that a condition of financial exigency occurs, as determined by the state board. For purposes of this subsection, “financial exigency” means circumstances which cause a shortfall in state appropriations and local revenue for operation of local school systems as compared with projected expenditures over the same period and such shortfall would have a material adverse effect on the operation of public schools. Subsections (c) and (f) of this Code section shall not apply to blanket waivers or variances issued pursuant to this subsection. (Code 1981, § 20-2-244, enacted by Ga. L. 2004, p. 107, § 6; Ga. L. 2008, p. 82, § 3/HB 1209; Ga. L. 2010, p. 158, § 5/HB 908; Ga. L. 2010, p. 237, § 1E/HB 1079; Ga. L. 2011, p. 635, § 8/HB 186; Ga. L. 2015, p. 1376, § 21/HB 502.)

The 2015 amendment, effective July 1, 2015, inserted “the requirements of Code Section 20-2-210;” in the first sentence of subsection (b).

20-2-244.1. Variance or waiver requests by public school students.

(a) As used in this Code section, the term:

(1) “Student” means a student who is or was enrolled in a public school in this state.

(2) “Substantial hardship” means a significant, unique, and demonstrable economic, technological, legal, or other type of hardship to the student requesting a variance or waiver.

(3) “Variance” means a modification granted by the State Board of Education to all or part of the literal requirements of a rule to a person who is subject to the rule.

(4) “Waiver” means a decision by the State Board of Education not to apply all or part of a rule to a person who is subject to the rule.

(b) Except as provided in subsection (f) of this Code section, the State Board of Education is authorized to grant a variance or waiver to a rule when a student subject to that rule demonstrates that the purpose of the underlying statute upon which the rule is based can be or has been achieved by other specific means which are agreeable to the person seeking the variance or waiver and that strict application of the rule would create a substantial hardship to such person.

(c) Except as provided in subsection (f) of this Code section, a student who is subject to regulation by a State Board of Education rule may file a petition with the state board requesting a variance or waiver from the state board’s rule. In addition to any other requirements which may be imposed by the state board, each petition shall specify:

(1) The rule from which a variance or waiver is requested;

(2) The type of action requested;

(3) The specific facts of substantial hardship which would justify a variance or waiver for the petitioner, including the alternative standards which the person seeking the variance or waiver agrees to meet and a showing that such alternative standards will afford adequate protection for the public health, safety, and welfare; and

(4) The reason why the variance or waiver requested would serve the purpose of the underlying statute.

(d) The state board shall grant or deny a petition for variance or waiver in writing no later than 60 days after the receipt of the petition. The state board’s decision to grant or deny the petition shall be in writing and shall contain a statement of the relevant facts and the reasons supporting the state board’s action.

(e) The state board's decision to deny a petition for variance or waiver shall be subject to judicial review in accordance with Code Section 50-13-19. The validity of any variance or waiver which is granted by the state board may be determined in an action for declaratory judgment in accordance with Code Section 50-13-10.

(f) This Code section shall not apply, and no variance or waiver shall be sought or authorized, when a state board rule or regulation has been adopted or promulgated in order to implement or promote a federally delegated program.

(g) An aggregated report of all waivers granted pursuant to this Code section shall be prepared and shall contain a description of the waiver granted, including a detail of the variance from any rule or regulation, but shall not include any identifying information of the student.

(h) The State Board of Education shall not be subject to Code Section 50-13-9.1 with respect to petitions for variances or waivers of rules by students. (Code 1981, § 20-2-244.1, enacted by Ga. L. 2015, p. 1376, § 22/HB 502.)

Effective date. — This Code section became effective July 1, 2015.

PART 9

GRANTS FOR EDUCATIONAL PROGRAMS

20-2-255. Petitions for charter school status.

Reserved. Repealed by Ga. L. 1998, p. 1080, § 1, effective July 1, 1998.

Editor's notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this Code section, effective April 24, 2013.

20-2-259. Extended day program for students in grades nine through 12.

The State Board of Education shall establish an extended day program for students in grades nine through 12. Subject to appropriation by the General Assembly, funding for extended day services shall be provided to local school systems through grants calculated as follows:

(1) Divide the salary amount for an administrator, as calculated on a ten-month basis, by the base size for the high school general education program (9-12); and

(2) Multiply the amount calculated in paragraph (1) of this Code section by the sum of the full-time equivalent program count for the

high school general education program (9-12) and the career, technical, and agricultural education laboratory program (9-12).

Each year the state board shall request funds sufficient to provide for the development and supervision of an extended day program during the regular school year. (Code 1981, § 20-2-259, enacted by Ga. L. 2000, p. 618, § 42; Ga. L. 2013, p. 1061, § 19/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “career, technical, and agricultural education” for “vocational” in paragraph (2).

PART 10

CAPITAL OUTLAY FUNDS

20-2-261. Common minimum facility requirements.

(a) The State Board of Education shall establish common minimum facility requirements which each public school facility must meet in order to be certified for use in any component of the educational or recreational program of that school. Such minimum requirements shall include those provisions of law or state board policy on matters that relate to fire and physical safety; sanitation and health, including temperature and ventilation; minimum space, size, and configuration for the various components of the instructional program; and construction stability, quality, and suitability for intended uses. Such minimum requirements shall not prohibit wood construction that is otherwise in compliance with state minimum standard codes as they existed on January 1, 2014. As used in this subsection, the term “state minimum standard codes” shall have the same meaning as in paragraph (9) of Code Section 8-2-20.

(b) The State Board of Education shall adopt policies and procedures to ensure that each school facility meets minimum standards as determined by state board policy.

(c) A proposed plan of action which includes a list and description of each deficiency and time limits within which such deficiencies are to be corrected must be submitted to the State Board of Education for review and approval. Further, the state board shall have the authority, in accordance with Code Section 20-2-243, to withhold all or part of the state funds in support of this part from any local unit of administration refusing or failing to implement the plan of action for deficiency remediation approved by the state board.

(d) A local board of education shall be exempt from county and municipal assessments and fees for county and municipal building permits and inspections and exempt from county and municipal impact fees. (Code 1981, § 20-2-261, enacted by Ga. L. 1985, p. 1657, § 1; Ga.

L. 1987, p. 1169, § 1; Ga. L. 1993, p. 541, § 1; Ga. L. 1995, p. 915, § 1; Ga. L. 2014, p. 813, § 1/SB 301.)

The 2014 amendment, effective July 1, 2014, added the third and fourth sentences in subsection (a).

20-2-263. Grant program to incentivize adoption of digital learning; rules and regulations.

(a) The State Board of Education is authorized to establish a grant program to incentivize the adoption of digital learning using high speed internet connections across Georgia schools. The grant program shall include funding, subject to appropriations by the General Assembly, for grants to local boards of education for the purchase of technology capital, including, but not limited to, desktop computers, network equipment, wireless equipment, tablet computers, laptop computers, and any other technology devices or equipment that advances student learning.

(b) The state board is authorized to develop rules and regulations to implement the grant program, including requiring local school systems to commit to expanding and paying for high speed bandwidth for five years and a plan of use of the bandwidth in each school for instructional purposes, requiring each local school system to demonstrate that it has a technology plan that incorporates the use of new technology into student learning and includes a component for professional development for staff, and requiring local matching funds from local school systems to demonstrate long-term sustainability. The grant program criteria may take into account the financial need and lack of existing bandwidth of a local school system and any previous grants received by the local board of education pursuant to this Code section and may provide for waiver of the matching funds requirement for local school systems that demonstrate financial need. (Code 1981, § 20-2-263, enacted by Ga. L. 2013, p. 1061, § 20/HB 283.)

Effective date. — This Code section became effective July 1, 2013.

PART 11

REGIONAL EDUCATIONAL SERVICE AGENCIES

20-2-270.1. Services to member local school systems by regional educational service agency; Georgia Learning Resources System; congruous service areas; Psycho-educational Network continued; sale of goods to private schools.

(a) Each regional educational service agency shall provide the following shared services to member local school systems:

(1) Identifying or conducting research related to educational improvements and in planning for the implementation of such improvements;

(2) Developing and implementing staff development programs with an emphasis on improving student achievement and school accountability;

(3) Developing and implementing curricula and instruction of the highest quality possible, including implementing the uniformly sequenced content standards adopted by the state board;

(4) Developing and implementing academic assessment and evaluation programs;

(5) Identifying and utilizing electronic technology, including computers, in an effort to improve the quality of classroom instruction as well as classroom, school, and school system management;

(6) Developing programs, resource materials, and staff development services relating to instruction on alcohol and drug abuse; and

(7) Assistance in the development and implementation of a state-wide mentoring program.

The shared services may also include assistance designed to address documented local needs pursuant to subsection (d) of Code Section 20-2-272.

(b) The state board shall make the service areas for the Georgia Learning Resources System congruous with the service areas for the RESA's. The RESA's are designated as the fiscal agents for the agency of the Georgia Learning Resources System or a local board of education as identified by the State Board of Education through an annual contract to serve as fiscal agent for the Georgia Learning Resources System. All member local school systems shall be provided the services of the Georgia Learning Resources System.

(c) The Psychoeducational Network for severely emotionally disturbed students shall be continued in effect. The service areas of units of the Psychoeducational Network for severely emotionally disturbed students in place on January 1, 1995, shall be continued in effect. The fiscal agent for each service area shall be as in effect on January 1, 1995, unless changed as provided in this subsection. Upon the request of a majority of the local school superintendents of the local school systems within a service area, representatives of each of the local school systems in the respective service area shall vote in the manner and at the time prescribed by the state board to determine if one of the local school systems or the regional educational service agency serving the respective service area shall serve as the fiscal agent for the respective unit of the Psychoeducational Network for the ensuing fiscal year. In the event this vote results in a change in the fiscal agent for the respective unit, the new fiscal agent shall continue in this capacity for a minimum of three fiscal years. In the event a regional educational service agency is designated as the fiscal agent for a service area, all member local school systems shall be provided the services of the Psychoeducational Network.

(d) A regional educational service agency shall be authorized to sell or provide at reasonable costs goods to private schools located in this state. (Code 1981, § 20-2-270.1, enacted by Ga. L. 2000, p. 618, § 45; Ga. L. 2002, p. 1149, § 1; Ga. L. 2015, p. 1376, § 23/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “core curriculum” in paragraph (a)(3).

PART 12

EFFECTIVENESS OF EDUCATIONAL PROGRAMS

20-2-281. Student assessments.

(a) The State Board of Education shall adopt a student assessment program consisting of instruments, procedures, and policies necessary to implement the program and shall fund all costs of providing and scoring such instruments, subject to appropriation by the General Assembly. Each local school system may elect to administer, with state funding, nationally norm-referenced instruments in reading, mathematics, science, or social studies in grade three, four, or five and in grade six, seven, or eight, subject to available appropriations, with assistance to such school systems by the State Board of Education with regard to administration guidance, scoring, and reporting of such instruments. Each local school system is strongly encouraged to implement a program of formative assessment and intervention in reading for kindergarten through third grade and mathematics for kindergar-

ten through fifth grade to ensure that students are on track to meet grade-level expectations. The State Board of Education shall review, revise, and upgrade the content standards. Following the adoption of such content standards, the State Board of Education shall contract for development of end-of-grade assessments to measure the content standards. Such assessments in English, language arts/reading, and mathematics shall be administered annually to students in grades three through eight, and such tests in science and social studies shall be administered annually to students in grades three through eight. These tests shall contain features that allow for comparability to other states with whom establishing such comparison would be statistically sound; provided, however, that no such comparison shall be conducted which would relinquish any measure of control over assessments to any individual or entity outside the state. This action shall be completed according to a schedule established by the State Board of Education. Writing performance shall be assessed, at a minimum, for students in grades three, five, eight, and 11 and may be assessed for students in additional grade levels as designated by the State Board of Education. Writing performance results shall be provided to students and their parents.

(b) The nationally norm-referenced instruments provided for in subsection (a) of this Code section shall provide students and their parents with grade equivalencies and percentile ranks which result from the administration of such instruments. End-of-grade assessments shall provide for results that reflect student achievement at the individual student, classroom, school, system, state, and national levels. The State Board of Education shall participate in the National Assessment of Educational Progress (NAEP) and may participate in any other tests that will allow benchmarking this state's performance against national or international performance. The results of such testing shall be provided to the Governor, the General Assembly, and the State Board of Education and shall be reported to the citizens of Georgia. Further, the state board shall adopt a school readiness assessment for students entering first grade and shall administer such assessment pursuant to paragraph (2) of subsection (b) of Code Section 20-2-151. One of the components in the awarding of salary supplements as part of a pay for performance or related plan under this article may be assessments of student achievement.

(b.1) The State Board of Education shall notify local school systems and individual schools of the results of the assessment instruments administered under this Code section at the earliest possible date determined by the state board, but not later than the beginning of the subsequent school year. In the event the state board is unable to provide timely results in the first year of implementation of a substantially new assessment instrument, the provisions in paragraphs (2) and (3) of subsection (b) of Code Section 20-2-283 shall not apply.

(c) The State Board of Education shall have the authority to condition the awarding of a high school diploma to a student upon achievement of satisfactory scores on instruments adopted and administered by the state board pursuant to subsection (a) of this Code section and the end-of-course assessments adopted and administered by the state board pursuant to subsections (f) and (h) of this Code section. The state board is authorized and directed to adopt regulations providing that any disabled child, as defined by the provisions of this article, shall be afforded opportunities to take any test adopted by the state board as a condition for the awarding of a high school diploma. Such regulations shall further provide for appropriate accommodations in the administration of such test. Such regulations shall further provide for the awarding of a special education diploma to any disabled student who is lawfully assigned to a special education program and who does not achieve a passing score on such test or who has not completed all of the requirements for a high school diploma but who has nevertheless completed his or her Individualized Education Program.

(d)(1) The State Board of Education shall develop or adopt alternate assessments to be administered to those students with significant cognitive disabilities, receiving special education services pursuant to Code Section 20-2-152, who cannot access the state adopted content standards without appropriate accommodations to those standards and for whom the assessment instruments adopted under subsections (a) and (f) of this Code section, even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's Individualized Education Program team.

(2) A student's Individualized Education Program team shall determine appropriate participation in assessment and identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act and state board regulations.

(e) The State Board of Education is authorized to adopt rules, regulations, policies, and procedures regarding accommodations and the participation of limited-English-proficient students, as defined in Code Section 20-2-156, in the assessments described in this Code section.

(f) The State Board of Education shall adopt end-of-course assessments for students in grades nine through 12 for all core subjects to be determined by the state board. For those students with an Individualized Education Program, each such student's Individualized Education Program team shall identify necessary accommodations in accordance with the federal Individuals with Disabilities Education Act and state board regulations.

(g) Under rules adopted by the State Board of Education, the Department of Education shall, subject to appropriations by the Gen-

eral Assembly, release some or all of the questions and answers to each end-of-grade assessment administered under subsection (a) of this Code section and each end-of-course assessment administered under subsection (h) of this Code section after the last time such assessment is administered for a school year.

(h) The State Board of Education, through the Department of Education, shall administer the end-of-course assessments for core subject areas as defined by state board policy. By the 2015-2016 school year, the State Board of Education shall make all end-of-course assessments available online and shall establish rules and regulations to maximize the number of students and school systems utilizing such online assessments.

(i) The Department of Education shall develop study guides for the end-of-grade assessments and end-of-course assessments administered pursuant to subsections (a) and (h) of this Code section. Each school system shall distribute the study guides to students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this Code section and to the parents or guardians of such students.

(j) The State Board of Education shall adopt rules and regulations requiring the results of core subject end-of-course assessments to be included as a factor in a student's final grade in the core subject course for which the end-of-course assessment is given.

(k) In addition to the assessment instruments adopted by the State Board of Education and administered by the Department of Education, a local school system may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. Such locally adopted assessment instruments may not replace the state's adopted assessment instruments for purposes of state accountability programs. A local school system shall be responsible for all costs and expenses incurred for locally adopted assessment instruments. Students with Individualized Education Programs must be included in the locally adopted assessments or provided an alternate assessment in accordance with the federal Individuals with Disabilities Education Act.

(l) In adopting academic skills assessment instruments under this Code section, the State Board of Education or local school system shall ensure the security of the instruments in their preparation, administration, and scoring. Notwithstanding any other provision of law, meetings or portions of meetings held by the state board or a local board of education at which individual assessment instruments or assessment instrument items are discussed or adopted shall not be open to the public, and the assessment instruments or assessment instrument items shall be confidential.

(m) The results of individual student performance on academic skills assessment instruments administered under this Code section shall be confidential and may be released only in accordance with the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g.

(n) Overall student performance data shall be disaggregated by ethnicity, sex, socioeconomic status, disability, language proficiency, grade level, subject area, school, system, and other categories determined by policies established by the Office of Student Achievement.

(o) Student performance data shall be made available to the public, with appropriate interpretations, by the State Board of Education, the Office of Student Achievement, and local school system. The information made available to the public shall not contain the names of individual students or teachers.

(p) Teachers in kindergarten through grade 12 shall be offered the opportunity to participate annually in a staff development program on the use of tests within the instructional program designed to improve students' academic achievement. This program shall instruct teachers on curriculum alignment related to tests, disaggregated student test data to identify student academic weaknesses by subtests, and other appropriate applications as determined by the State Board of Education.

(q) The State Board of Education shall consider the passage by a student of an industry certification examination or a state licensure examination which is approved by the State Board of Education or a COMPASS score approved by the State Board of Education when considering whether to grant such student a variance or a waiver of one or more end-of-course assessments required by the State Board of Education pursuant to subsection (c) of this Code section in order to obtain a Georgia high school diploma; provided, however, that the state board shall not grant a variance to a student unless the student has attempted and failed to pass the relevant end-of-course assessment or assessments at least four times. (Code 1981, § 20-2-281, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1991, p. 1543, § 1; Ga. L. 1995, p. 311, § 1; Ga. L. 1995, p. 1302, § 14; Ga. L. 1996, p. 1600, § 2; Ga. L. 2000, p. 618, § 51; Ga. L. 2003, p. 185, § 3; Ga. L. 2004, p. 107, § 7; Ga. L. 2008, p. 807, § 1/HB 637; Ga. L. 2010, p. 186, § 2/HB 400; Ga. L. 2012, p. 358, § 21/HB 706; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2012, p. 893, § 3/SB 289; Ga. L. 2015, p. 21, § 4/HB 91; Ga. L. 2015, p. 1376, § 24/HB 502.)

The 2015 amendments. — The first 2015 amendment, effective March 30, 2015, rewrote this Code section. The second 2015 amendment, effective July 1,

2015, rewrote this Code section. See Code Commission note regarding the effect of these amendments.

Code Commission notes. — Pursuant

to Code Section 28-9-5, in 2015, a portion of the amendments to subsections (a) and (g) of this Code section by Ga. L. 2015, p. 21, § 4/HB 91, was treated as impliedly

repealed and superseded by Ga. L. 2015, p. 1376, § 24/HB 502 due to irreconcilable conflict.

20-2-281.1. Petition to obtain high school diploma; notice of petition option.

(a) On and after March 30, 2015, students shall no longer be required to earn a passing score on the Georgia High School Graduation Test to earn a high school diploma.

(b) A person who is no longer enrolled in a Georgia public school and who previously failed to receive a high school diploma in this state or was denied graduation solely for failing to achieve a passing score on one or more portions of the Georgia High School Graduation Test or its predecessor or the Georgia High School Writing Test or its predecessor may petition the local board of education in which he or she was last enrolled to determine the student's eligibility to receive a high school diploma pursuant to this Code section based on the graduation requirements in effect when the student first entered ninth grade. Once the local board of education confers a diploma upon a student meeting such requirements, the local board shall transmit to the Georgia Department of Education in accordance with department procedures the number of diplomas awarded. The local board of education may date the high school diploma on the date the student graduated or the date the diploma was conferred. Students receiving diplomas pursuant to this Code section shall not be counted as graduates in the graduation rate calculations for affected schools and school systems, either retroactively or in current or future calculations. On or before January 31, 2020, the Georgia Department of Education shall report to the State Board of Education and the General Assembly the number of diplomas granted, by local school system, pursuant to this Code section.

(c) Each local school system shall annually advertise the provisions of this Code section, one time no later than January 15, 2016, one time no later than January 15, 2017, and one time no later than January 15, 2018. Such advertisement shall be made in a local newspaper of general circulation which shall be the same newspaper in which other legal announcements of the local board of education are advertised. At a minimum, such notice shall consist of two columns measuring at least ten inches in length and measuring at least four and one-half inches in combined width, and include:

- (1) A headline printed in at least a 24 point boldface type;
- (2) An explanation of who qualifies for the petitioning option;
- (3) An explanation of the petition process;

(4) A contact name and phone number; and

(5) The deadline for submitting a petition. (Code 1981, § 20-2-281.1, enacted by Ga. L. 2015, p. 21, § 5/HB 91.)

Effective date. — This Code section became effective March 30, 2015. to Code Section 28-9-5, in 2015, “March 30, 2015” was substituted for “the effective

Code Commission notes. — Pursuant date of this Act” in subsection (a).

20-2-283. Criteria; specific requirements for students in grades three, five, and eight; implementation.

(a) No later than January 1, 2002, the State Board of Education shall adopt criteria for the development of a placement and promotion policy by each local board of education consistent with the Georgia Academic Placement and Promotion Policy.

(b) Such criteria as adopted by the State Board of Education shall require the following for students in grades three, five, and eight:

(1) No student shall be promoted, except as provided in this Code section, to:

(A) The fourth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the third grade end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria established by the State Board of Education and by the local school board for the school that the student attends;

(B) The sixth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the fifth grade end-of-grade mathematics assessment and fifth grade end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria established by the State Board of Education and by the local school board for the school that the student attends; or

(C) The ninth grade program to which the student would otherwise be assigned if the student does not achieve grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 on the eighth grade end-of-grade mathematics assessment and eighth grade end-of-grade reading assessment developed in accordance with subsection (a) of Code Section 20-2-281 and meet the promotional standards and criteria estab-

lished by the State Board of Education and by the local school board for the school that the student attends;

(2) When a student does not perform at grade level on any end-of-grade assessment specified in paragraph (1) of this subsection then the following shall occur:

(A) The parent or guardian of the student shall be notified in writing by first-class mail by the school principal or such official's designee regarding the student's performance below grade level on the assessment instrument, the retest to be given the student, the accelerated, differentiated, or additional instruction program to which the student is assigned, and the possibility that the student might be retained at the same grade level for the next school year;

(B) The student shall be retested with a end-of-grade assessment or an alternative assessment instrument that is appropriate for the student's grade level as provided for by the State Board of Education and the local board of education; and

(C) The student shall be given an opportunity for accelerated, differentiated, or additional instruction in the applicable subject; and

(3) When a student does not perform at grade level on any end-of-grade assessment specified in paragraph (1) of this subsection and also does not perform at grade level on a second additional opportunity as provided for in paragraph (2) of this subsection then the following shall occur:

(A) The school principal or the principal's designee shall retain the student for the next school year except as otherwise provided in this subsection;

(B) The school principal or the principal's designee shall notify in writing by first-class mail the parent or guardian of the student and the teacher regarding the decision to retain the student. The notice shall describe the option of the parent, guardian, or teacher to appeal the decision to retain the student and shall further describe the composition and functions of the placement committee as provided for in this subsection, including the requirement that a decision to promote the student must be a unanimous decision of the committee;

(C) If the parent, guardian, or teacher appeals the decision to retain the student, then the school principal or designee shall establish a placement committee composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of the assessment instrument on which the student failed to perform at grade level and shall notify in writing

by first-class mail the parent or guardian of the time and place for convening the placement committee;

(D) The placement committee shall:

(i) Review the overall academic achievement of the student in light of the performance on the end-of-grade assessment and the standards and criteria as adopted by the local board of education and make a determination to promote or retain. A decision to promote must be a unanimous decision and must determine that if promoted and given accelerated, differentiated, or additional instruction during the next year, the student is likely to perform at grade level as defined by the Office of Student Achievement in accordance with Code Section 20-14-31 by the conclusion of the school year; and

(ii) Prescribe for the student, whether the student is retained or promoted, such accelerated, differentiated, or additional instruction as needed to perform at grade level by the conclusion of the subsequent school year, prescribe such additional assessments as may be appropriate in addition to assessments administered to other students at the grade level during the year, and provide for a plan of continuous assessment during the subsequent school year in order to monitor the progress of the student;

(E) For students receiving special education or related services, the Individualized Education Plan Committee shall serve as the placement committee; and

(F) The decision of the placement committee may be appealed only as provided for by the local board of education.

(c) This Code section does not preclude the retention by the school principal or the principal's designee of a student who performs satisfactorily on the end-of-grade assessments specified in paragraph (1) of subsection (b) of this Code section as provided for by the local board of education.

(d) This Code section does not create a property interest in promotion.

(e) The State Board of Education shall establish policies and procedures for implementation of this Code section. (Code 1981, § 20-2-283, enacted by Ga. L. 2001, p. 148, § 15; Ga. L. 2004, p. 107, § 22; Ga. L. 2015, p. 21, § 6/HB 91.)

The 2015 amendment, effective March 30, 2015, substituted "end-of-grade" for "criterion-referenced" throughout this Code section.

20-2-284. Criteria for local boards of education; model placement and promotion policy.

(a) No later than July 1, 2003, each local board of education shall develop and adopt a placement and promotion policy in accordance with the criteria established by the State Board of Education as provided in Code Section 20-2-283 and consistent with the Georgia Academic Placement and Promotion Policy.

(b) Except for those end-of-grade assessments specified in Code Section 20-2-283, the placement and promotion policy as developed and adopted by each local board of education shall state how the end-of-grade assessments administered under Code Section 20-2-281 for grades one through eight will be weighted or otherwise utilized by the school principal or the principal's designee in determining the overall academic achievement of a student and an appropriate plan of accelerated, differentiated, or additional instruction, placement, promotion, or retention of a student.

(c) To assist each local board of education, the State Board of Education shall develop a model placement and promotion policy which may be utilized by a local board of education. (Code 1981, § 20-2-284, enacted by Ga. L. 2001, p. 148, § 15; Ga. L. 2015, p. 21, § 7/HB 91.)

The 2015 amendment, effective March 30, 2015, in subsection (b), in the first sentence, substituted "end-of-grade" for "criterion-referenced" near the begin-

ning and substituted "end-of-grade assessments" for "criterion-referenced competency tests" near the middle.

PART 13

ORGANIZATION OF SCHOOLS AND SYSTEMS

20-2-290. Organization of schools; employment of school administrative managers.

(a) The board of education of any local school system is authorized to organize or reorganize the schools and fix the grade levels to be taught at each school in its jurisdiction.

(b) The board of education of any local school system shall be authorized to employ school administrative managers in lieu of or in addition to assistant principals. Such school administrative managers shall not be required to be certificated by the Professional Standards Commission but shall have such qualifications as determined by the local board with a minimum requirement of a bachelor's degree or satisfactory business experience. The duties of school administrative managers shall be to oversee and manage the financial and business affairs of the school. The principal shall retain authority over the

curriculum and instructional areas. The school administrative manager shall report directly to the principal. In the event that a local board considers hiring or utilizing school administrative managers pursuant to this subsection, it shall receive and give all due consideration to recommendations by the school council as to whether or not to utilize such position and as to selection of the manager. Existing employees of the local board shall be eligible to serve as school administrative managers if they meet other qualifications and requirements established by the local board for such position. For purposes of earning funds for such positions, school administrative managers shall be treated in all respects the same as assistant principals. (Code 1981, § 20-2-290, enacted by Ga. L. 1985, p. 1657, § 1; Ga. L. 1987, p. 1169, § 1; Ga. L. 1990, p. 892, § 1; Ga. L. 1991, p. 94, § 20; Ga. L. 2000, p. 618, § 54; Ga. L. 2001, p. 148, § 16; Ga. L. 2004, p. 107, § 7B; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2007, p. 259, § 2/SB 72; Ga. L. 2011, p. 647, § 7/HB 192; Ga. L. 2015, p. 1376, § 25/HB 502.)

The 2015 amendment, effective July 1, 2015, rewrote this Code section.

PART 14

OTHER EDUCATIONAL PROGRAMS

20-2-306. Honors program; residential high school program.

(a) The Office of Student Achievement is authorized to continue and administer an honors program for students in the public and private high schools of this state and for resident students who attend a home study program who have manifested exceptional abilities or unique potentials or who have made exceptional academic achievements. This program shall be conducted during summer months between normal school year terms at institutions of higher learning or other appropriate centers within this state with facilities adequate to provide challenging opportunities for advanced study and accomplishments by such students. The student honors program shall be implemented and operated in accordance with criteria established by the Office of Student Achievement, and operating costs shall be paid by the Office of Student Achievement from funds made available for this purpose by the General Assembly. The Office of Student Achievement is authorized to enter into cooperative agreements with the Board of Regents of the University System of Georgia for operating and sharing the costs of such programs.

(b) The State Board of Education is authorized to inaugurate and operate a residential high school program for highly gifted and talented youth of this state. This residential high school program shall consist only of students in the eleventh and twelfth grades. Enrollment shall be by student application and on a voluntary basis; provided, however,

that the parent or legal guardian of each student must have signed an agreement authorizing enrollment in this program. This program shall be operated during the normal school year for a minimum of 180 days, or the equivalent thereof as determined in accordance with State Board of Education guidelines, in cooperation with one or more of the state universities or colleges from funds provided by the General Assembly. The state board is authorized to enter into cooperative agreements with the Board of Regents of the University System of Georgia concerning the operation and sharing of costs of this program. The state board shall prescribe policy, regulations, standards, and criteria as needed for the effective operation of this program. (Code 1981, § 20-2-300, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-306, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 2009, p. 72, § 1/SB 210; Ga. L. 2009, p. 638, § 4/HB 193; Ga. L. 2015, p. 1376, § 26/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (a), substituted “Office of Student Achievement” for “state board” throughout and substituted “Office of Student Achievement is authorized to continue and administer” for “State Board of Education is authorized to inaugurate” near the beginning.

20-2-307. Youth camps; food-processing and young farmers programs.

The State Board of Education shall have authority to provide for the operation of youth camps, food-processing programs, and young farmer programs. The state board shall annually determine the amount of funds needed to provide the programs described in this Code section and shall annually request from the General Assembly such appropriations as are needed. (Code 1981, § 20-2-300, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-307, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted “in this Code section” for “in this subsection” in the middle of the last sentence.

20-2-311. State Board of Postsecondary Vocational Education.

Reserved. Repealed by Ga. L. 1988, p. 1252, § 1, effective July 1, 1988.

Editor’s notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this Code section, effective April 24, 2013.

20-2-314. Development of rape prevention, personal safety education, and teen dating violence prevention programs.

The State Board of Education shall develop, with input from appropriate experts, such as rape crisis centers and family violence shelters, a rape prevention and personal safety education program and a program for preventing teen dating violence for grade eight through grade 12 which are consistent with the content standards provided for in Code Section 20-2-140. Local boards may implement such programs at any time and for any grade level local boards find appropriate, and the state board shall encourage the implementation of such programs. In addition, the state board shall make information regarding such programs available to the Board of Regents of the University System of Georgia. (Code 1981, § 20-2-314, enacted by Ga. L. 2000, p. 163, § 1; Ga. L. 2003, p. 915, § 1; Ga. L. 2015, p. 1376, § 27/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “core curriculum” near the end of the first sentence.

20-2-315. Gender discrimination prohibited; authorized separate gender teams; equal athletic opportunity; physical education classes; employee designated to monitor compliance; grievance procedures; reporting requirements.

(a) No student shall, on the basis of gender, be excluded from participation in, be denied the benefits of, be treated differently from another student, or otherwise be discriminated against in any interscholastic or intramural athletics offered by a local school system, and no local school system shall provide any such athletics separately on such basis.

(b) Notwithstanding the requirements of subsection (a) of this Code section, a local school system may operate or sponsor separate teams for members of each gender where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a local school system operates or sponsors a team in a particular sport for members of one gender but operates or sponsors no such team for members of the other gender, and athletic opportunities for members of that gender in that particular sport have previously been limited, members of the excluded gender must be allowed to try out for the team offered unless the sport involved is a contact sport. Nothing in this subsection shall be construed to limit the authority of a local school system to operate or sponsor a single team for a contact sport that includes members of both genders. As used in this subsection, the term “contact sport” includes boxing, wrestling, rugby, ice hockey, football, basketball, and any other sport the purpose or major activity of which involves bodily contact.

(c) A local school system which operates or sponsors interscholastic or intramural athletics shall undertake all reasonable efforts to provide equal athletic opportunity for members of both genders. In determining whether equal opportunities are available the following factors shall be considered:

- (1) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both genders;
- (2) The provision of equipment and supplies;
- (3) Scheduling of games and practice time;
- (4) Travel allowance;
- (5) Opportunity to receive coaching and academic tutoring;
- (6) Assignment and compensation of coaches and tutors;
- (7) Provision of locker rooms and practice and competitive facilities;
- (8) Provision of medical and training facilities and services; and
- (9) Publicity.

Unequal aggregate expenditures for members of each gender or unequal expenditures for male and female teams if a local school system operates or sponsors separate teams will not constitute noncompliance with this subsection, but the failure to provide essential funds for the basic operations of teams for one gender may be considered in assessing equality of opportunity for members of each gender. Nothing in Code Section 20-2-411 shall be construed to limit the authority of a local school system to expend school tax funds as authorized by Article VIII, Section VI, Paragraph I(b) of the Constitution in order to comply with the requirements of this Code section.

(d) A local school system may provide separate toilet, locker room, and shower facilities on the basis of gender, but such facilities shall be comparable to such facilities provided for students of the other gender.

(e) This Code section does not prohibit the grouping of students in physical education classes by gender.

(f)(1) Subject to the provisions of paragraph (3) of this subsection, if a local school system sponsors an athletic activity or sport at a particular school that is similar to a sport for which an institution in the University System of Georgia offers an athletic scholarship, it must sponsor the athletic activity or sport for which a scholarship is offered at that school. This paragraph does not affect academic requirements for participation nor prevent the local school system

from sponsoring activities in addition to those for which scholarships are provided.

(2) Two athletic activities or sports that are similar may be offered simultaneously.

(3) If a local school system demonstrates by a bona fide survey of eligible students at the school, which is approved by the Department of Education for compliance with generally accepted opinion survey principles regarding neutral wording and other matters, that there is insufficient interest among students at the school to field a team described in paragraph (1) of this subsection, then the local school system shall not be required to sponsor such athletic activity or sport at that school. The exemption provided for by this paragraph shall be valid for 24 months following the date when the most recent bona fide student survey demonstrating a lack of student interest was completed, unless a new bona fide student survey is conducted within the 24 month period that demonstrates sufficient interest to field a team. If such a new bona fide student survey demonstrates such sufficient interest, then the local school system must comply with paragraph (1) of this subsection during the local school system's next fiscal year and until such time as a new bona fide student survey demonstrates insufficient interest to field a team described in paragraph (1) of this subsection. A local school system shall conduct the bona fide student survey described in this paragraph regarding interest in a team described in paragraph (1) of this subsection upon the request of nine students at the school, but no more frequently than once every 12 months.

(4) Nothing in this subsection shall be construed to preclude the application of generally applicable policies or rules regarding the cancellation of an athletic activity or sport due to lack of student participation in scheduled practices or contests.

(g) Each local school system shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this Code section, including the investigation of any complaint communicated to such local school system alleging its noncompliance with this Code section. The employee designated under this subsection may be the same person required to be designated under 34 C.F.R. Section 106.8. The local school system annually shall notify all its students of the name, office address, and office telephone number of the employee or employees appointed pursuant to this subsection. Such notification may be included in a student handbook distributed pursuant to Code Section 20-2-736.

(h) Each local school system shall adopt and publish grievance procedures providing for prompt and equitable resolution of written

student complaints, including complaints brought by a parent or guardian on behalf of his or her minor child who is a student, alleging any action which would be a violation of this Code section. Such procedures shall require that:

(1) The employee designated under subsection (g) of this Code section shall render his or her decision in writing no later than 30 days after receipt of the complaint, and such decision shall set forth the essential facts and rationale for the decision;

(2) A copy of such decision shall be provided to the complainant within five days of the date of the decision; and

(3) A complainant shall have a right to appeal such decision to the local board within 35 days of the date of the decision.

(i)(1) A complainant may appeal a decision of a local board that is rendered under subsection (h) of this Code section in accordance with the procedures specified in Code Section 20-2-1160. If the State Board of Education determines that a local school system has failed to comply with this Code section, then the state board shall provide the local school system with opportunities to prepare a corrective plan. If the state board determines that a corrective plan of the local school system adequately plans and provides for future compliance with this Code section, then the state board shall approve the plan and direct the local school system to implement such plan.

(2) If, upon a complaint filed pursuant to subsection (h) of this Code section after one year following the date of a state board order directing implementation of a corrective plan pursuant to paragraph (1) of this subsection but within four years of the date of such order, the state board determines that the local school system which was subject to such order has willfully failed to comply with this Code section, the state board may, after consideration of the local school system's efforts to implement the corrective plan approved in the earlier proceeding and of any other corrective plan that may be submitted by the local school system, transmit a certification of such determination to the Department of Community Affairs. If the state board's determination of noncompliance is later reversed or vacated upon appeal, the state board shall immediately notify the Department of Community Affairs of such action.

(3) If, upon a complaint filed pursuant to subsection (h) of this Code section after one year following the date of a state board certification to the Department of Community Affairs pursuant to paragraph (2) of this subsection but within four years of the date of such order, the state board determines that the local school system which was subject to such order has willfully failed to comply with this Code section, the state board may, after consideration of the local

school system's efforts to implement a corrective plan approved in an earlier proceeding and of any other corrective plan that may be submitted by the local school system, order that a team or teams within the local school system or school within the local school system shall not participate in interscholastic postseason athletic contests and that participation in violation of such an order may result in withholding of state funds allotted pursuant to Code Section 20-2-186. An order of the state board barring participation in interscholastic postseason athletic contests shall be made and announced before the beginning of a school year.

(4) If, upon a complaint filed pursuant to subsection (h) of this Code section after one year following the date of a state board order prohibiting participation in interscholastic postseason athletic contests pursuant to paragraph (3) of this subsection but within four years of the date of such order, the state board determines that the local school system which was subject to such order has willfully failed to comply with this Code section, the state board may, after consideration of the local school system's efforts to implement a corrective plan approved in an earlier proceeding and of any other corrective plan that may be submitted by the local school system, withhold state funds that are allotted pursuant to Code Section 20-2-186 in an amount that the state board determines is sufficient to secure the local school system's compliance with this Code section. In the event that state funds are withheld pursuant to this paragraph, such funds shall later be allotted to the local school system at such time as the state board determines that the local school system is in compliance with this Code section.

(j) The Department of Education may publish an annual report of local school systems to include information regarding expenditures and participation rates for each gender and such other information as the state board and department deem relevant. (Code 1981, § 20-2-315, enacted by Ga. L. 2000, p. 1129, § 2; Ga. L. 2010, p. 157, § 1/HB 910; Ga. L. 2015, p. 1376, § 28/HB 502.)

The 2015 amendment, effective July 1, 2015, substituted "may" for "shall" near the beginning of subsection (j).

20-2-316.2. Financial reporting by athletic associations.

(a) As used in this Code section, the term "athletic association" means any association of schools or any other similar organization which acts as an organizing, sanctioning, scheduling, or rule-making body for interscholastic athletic events in which public schools in this state participate.

(b) No high school which receives funding under this article shall participate in, sponsor, or provide coaching staff for interscholastic sports events which are conducted under the authority of, conducted under the rules of, or scheduled by any athletic association unless such athletic association annually publishes and provides to its members a financial report of its activities for the preceding calendar year or fiscal year, if different from the calendar year, within 90 days after the end of such calendar year or fiscal year. Such report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses for such calendar year or fiscal year. (Code 1981, § 20-2-316.2, enacted by Ga. L. 2014, p. 368, § 1/SB 288.)

Effective date. — This Code section became effective July 1, 2014. Athletics Overview Committee, § 20-2-2100 et seq.

Cross references. — High School Ath-

20-2-317. Inappropriate means of encouraging and rewarding student athletes; penalty; notice to students.

(a) As used in this Code section, the term:

(1) “Immediate family” means a student-athlete’s spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, nephew, niece, aunt, uncle, and first cousin and the spouses and guardians of any such individuals.

(2) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, firm, or any other legal or commercial entity.

(3) “Student-athlete” means a student at any public or private institution of postsecondary education in this state or a student residing in this state who has applied, is eligible to apply, or may be eligible to apply in the future to a public or private institution of postsecondary education who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program.

(4) “Transaction” means any action or set of actions occurring between two or more persons for the sale or exchange of any property or services.

(b) Except as provided in subsection (c) of this Code section, no person shall give, offer, promise, or attempt to give any money or other thing of value to a student-athlete or member of a student-athlete’s immediate family:

(1) To induce, encourage, or reward the student-athlete’s application, enrollment, or attendance at a public or private institution of

postsecondary education in order to have the student-athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution; or

(2) To induce, encourage, or reward the student-athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

(b.1) No person shall enter into or solicit directly or through an agent a transaction with a student-athlete if such person has knowledge that the transaction would likely be cause for the student-athlete to permanently or temporarily lose athletic scholarship eligibility, the ability to participate on an intercollegiate athletic team, or the ability to participate in one or more intercollegiate sporting competitions as sanctioned by a national association for the promotion and regulation of intercollegiate athletics, by an athletic conference or other sanctioning body, or by the institution of postsecondary education itself as a reasonable self-imposed disciplinary action taken by such institution to mitigate sanctions likely to be imposed by such organizations as a result of such transaction or as a violation of such institution's own rules.

(c) This Code section shall not apply to:

(1) Any public or private institution of postsecondary education or to any officer or employee of such institution when the institution or officer or employee of such institution is acting in accordance with an official written policy of such institution which is in compliance with the bylaws of the National Collegiate Athletic Association;

(2) Any intercollegiate athletic awards approved or administered by the student-athlete's institution;

(3) Grants-in-aid or other full or partial scholarships awarded to a student-athlete or administered by an institution of postsecondary education;

(4) Members of the student-athlete's immediate family; and

(5) Money or things of value given by a person to a student-athlete or the immediate family of a student-athlete that do not exceed \$250.00 in value in the aggregate on an annual basis.

(d) Any person that violates the provisions of subsection (b) or (b.1) of this Code section shall be guilty of a misdemeanor of a high and aggravated nature.

(e) Each public and private high school in this state shall advise in writing at the beginning of each sports season each student who participates in any athletic program sponsored by the school of the provisions of this Code section and shall provide each student with information concerning the effect of receiving money or other things of

value on the student's future eligibility to participate in intercollegiate athletics. The provisions of this subsection shall not apply to intermural athletic programs at such schools. (Code 1981, § 20-2-317, enacted by Ga. L. 2003, p. 707, § 1; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2015, p. 813, § 1/HB 3.)

The 2015 amendment, effective May 6, 2015, in paragraphs (a)(1), (a)(2) and (a)(3), substituted "means" for "shall mean"; added paragraph (a)(4); added subsection (b.1); and, inserted "or (b.1)" in subsection (d).

20-2-318. Intercollegiate athletics; remedies for improper activities.

(a) As used in this Code section, the term:

(1) "Immediate family" shall mean a student-athlete's spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, nephew, niece, aunt, uncle, first cousin, and the spouses and guardians of any such individuals.

(2) "Person" shall mean an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, firm, or any other legal or commercial entity.

(3) "Student-athlete" shall mean a student at any public or private institution of postsecondary education in this state or a student residing in this state who has applied, is eligible to apply, or may be eligible to apply in the future to a public or private institution of postsecondary education who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program.

(b) Each public and private institution of postsecondary education located in this state that participates or engages in intercollegiate athletics shall have a right of action against any person who engages in any activity concerning student-athletes that results in:

(1) The institution being penalized, disqualified, or suspended from participation in intercollegiate athletics by a national association for the promotion and regulation of intercollegiate athletics, by an athletic conference or other sanctioning body, or by reasonable self-imposed disciplinary action taken by such institution to mitigate sanctions likely to be imposed by such organizations as a result of such activity; or

(2) The student-athlete permanently or temporarily losing athletic scholarship eligibility, the ability to participate on an intercollegiate athletic team, or the ability to participate in one or more intercollegiate sporting competitions as sanctioned by a national association

for the promotion and regulation of intercollegiate athletics, by an athletic conference or other sanctioning body, or by the institution itself as a reasonable self-imposed disciplinary action taken by such institution to mitigate sanctions likely to be imposed by such organizations as a result of engaging in such activity or as a violation of such institution's own rules.

The institution shall be entitled to recover all damages which are directly related to or which flow from and are reasonably related to such improper activity and to such penalties, disqualifications, and suspensions. Damages shall include, but not be limited to, loss of scholarships, loss of television revenue, loss of bowl revenue, and legal and other fees associated with the investigation of the activity and the representation of the institution before the sanctioning organizations in connection with the investigation and resolution of such activity. If the institution is the prevailing party in its cause of action, it shall be entitled to an award of court costs, costs of litigation, and reasonable attorney's fees. The institution may also request and the court may enter an injunction against any person found liable from having any further contact with the institution, its student-athletes, and student-athletes who have expressed or might express an interest in attending the institution and from attending athletic contests, exhibitions, games, or other such events in which one or more of the institution's student-athletes is participating. The right of action and remedies under this Code section are in addition to all other rights of action which may be available to the institution. (Code 1981, § 20-2-318, enacted by Ga. L. 2003, p. 707, § 1; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2015, p. 813, § 2/HB 3.)

The 2015 amendment, effective May 6, 2015, in subsection (b), designated the previously existing sentence as the introductory language of subsection (b) and paragraph (b)(1); inserted the concluding colon at the end of the introductory lan-

guage of subsection (b); in paragraph (b)(1), substituted "The institution" for "the institution" at the beginning, and inserted "; or" at the end; and added paragraph (b)(2).

20-2-319.1. Georgia Virtual School.

(a) The State Board of Education is authorized to establish the Georgia Virtual School whereby students may enroll in courses via the Internet or in any other manner not involving on-site interaction with a teacher. Any Georgia student who is age 21 or younger shall be eligible to enroll in the Georgia Virtual School. The State Board of Education is authorized to promulgate rules and regulations pertaining to the Georgia Virtual School. Such rules and regulations, if established, shall include, at a minimum, a process for students to enroll in Georgia Virtual School courses and a process whereby a student's grade in the course is reported on the student's transcript. All teachers who provide instruction through the Georgia Virtual School shall be certi-

fied by the Professional Standards Commission. A local school system shall not prohibit any student from taking a course through the Georgia Virtual School, regardless of whether the school in which the student is enrolled offers the same course.

(b)(1) The department is authorized to establish a Georgia Virtual School grant account with funds appropriated by the General Assembly. The department shall use funds from such grant account to pay for costs associated with the Georgia Virtual School incurred by the department, including, but not limited to, actual costs associated with the maintenance of the Georgia Virtual School, such as new course development, credit recovery, blended learning training, and operating a clearing-house, and costs for tuition, materials, and fees for courses taken through the Georgia Virtual School by students in home study programs or private schools in this state.

(2) The local school system shall pay to the department costs for tuition, materials, and fees directly related to the approved course taken by a student in its school system through the Georgia Virtual School; provided, however, that in no event shall the amount of tuition charged to and paid by the local school system on behalf of such student exceed \$250.00 per student per semester course; and provided, further, that if a student participates in courses through the Georgia Virtual School that are in excess of the maximum number of courses a student may be enrolled in during a school day, such student shall be subject to the cost of tuition not to exceed \$250.00 per student per semester course.

(3) Students in home study programs and private schools in this state may enroll in courses through the Georgia Virtual School at no cost, if appropriations are provided for such purpose in accordance with paragraph (1) of this subsection. If appropriations are not provided or if appropriations are provided but have been expended for such purpose, students in home study programs and private schools in this state may enroll in courses through the Georgia Virtual School based on availability of slots; provided, however, that such students shall be subject to the cost of tuition not to exceed \$250.00 per student per semester course.

(c) The Georgia Virtual School shall not be considered a school for purposes of Article 2 of Chapter 14 of this title. (Code 1981, § 20-2-319.1, enacted by Ga. L. 2005, p. 795, § 2/SB 33; Ga. L. 2012, p. 893, § 4/SB 289; Ga. L. 2015, p. 1376, § 29/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (a), deleted “state funded” preceding “courses” in the first sentence, and deleted “, at no cost to the student” in the second sentence; in paragraph

(b)(1), substituted “such grant” for “this grant” and substituted “clearing-house, and costs for tuition, materials, and fees for courses taken through the Georgia Virtual School by students in home study programs

or private schools in this state” for “clearing-house” in the second sentence; in paragraph (b)(2), inserted “and paid by”, inserted “on behalf of such student” near the end, and added the proviso at the end; and added paragraph (b)(3).

20-2-319.3. Online clearing-house of interactive distance learning courses.

(a) This Code section shall be known and may be cited as the “Online Clearing-house Act.”

(b) As used in this Code section, the term:

(1) “Charter school” means a local charter school, as defined in paragraph (7) of Code Section 20-2-2062, a state chartered special school, as defined in paragraph (16) of Code Section 20-2-2062, and a state charter school, as defined in paragraph (2) of Code Section 20-2-2081.

(2) “Clearing-house” means the clearing-house established pursuant to subsection (c) of this Code section.

(3) “One credit” and “half-credit” mean the customary academic unit of credit granted for secondary school courses in this state.

(4) “Student’s school system” means the local school system operating the school in which the student is lawfully enrolled.

(c)(1) The department shall establish a clearing-house of interactive distance learning courses and other distance learning courses delivered via a computer based method offered by local school systems and charter schools for sharing with other local school systems and charter schools for the fee set pursuant to subsection (e) of this Code section. The department shall review the content of each course prior to including it in the clearing-house to ensure that it meets state curriculum standards. The department is authorized to approve courses for inclusion in the clearing-house if the content meets state curriculum standards, the applicant meets all technical requirements, and the course is delivered by a highly qualified teacher who exhibits exceptional teaching skills and methodology as certified by the local school system or charter school, which teacher’s credentials and skills shall be subject to review and approval by the department.

(2) To offer a course through the clearing-house, a local school system or charter school shall apply to the department in a form and manner prescribed by the department. The application for each course shall describe the course of study in as much detail as required by the department, the qualification and credentials of the teacher, the number of hours of instruction, the technology required to deliver and receive the course, the technical capacity of the local school

system or charter school to deliver the course, the times that the local school system or charter school plans to deliver the course, and any other information required by the department. The department may require local school systems and charter schools to include in their applications information recommended by the State Board of Education.

(3) The department shall review the technical specifications of each application submitted pursuant to paragraph (2) of this subsection and shall determine if the local school system or charter school can satisfactorily deliver the course through the technology necessary for that delivery. All such courses shall be delivered only in accordance with technical specifications approved by the department.

(4) The department may request additional information from a local school system or charter school that submits an application pursuant to paragraph (2) of this subsection, if the department determines that such information is necessary. The department may negotiate changes in the proposal to offer a course, if the department determines that changes are necessary in order to approve the course.

(5) The department shall catalog each course approved for the clearing-house, through a print or electronic medium, displaying the following:

(A) Information necessary for a student and the student's parent, guardian, or custodian and the student's school system or the student's charter school to decide whether to enroll in the course; and

(B) Instructions for enrolling in that course, including deadlines for enrollment.

(6) The department shall identify the copyright owner of each course in the catalog and shall assist local school systems and charter schools in understanding the process of registering copyrights and other protections of intellectual property under federal law, if requested.

(d)(1) A student who is enrolled in a school operated by a local school system or in a charter school may enroll in a course included in the clearing-house only if both of the following conditions are satisfied:

(A) The student's enrollment in the course is approved by the student's school system or the student's charter school; and

(B) The student's school system or the student's charter school agrees to accept for credit the grade assigned by the local school system or charter school delivering the course.

(2) For each student enrolling in a course, the student's school system or the student's charter school shall transmit the student's identification number and the student's name to the local school system or charter school delivering the course. The school system or charter school delivering the course may request from the student's school system or the student's charter school other information from the student's school record. The student's school system or the student's charter school shall provide the requested information only in accordance with state law.

(3) The student's school system or the student's charter school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the department.

(4) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school system or the student's charter school.

(5) A student who is enrolled in a school operated by a local school system or in a charter school and who takes a course included in the clearing-house shall be counted in the funding formula of the student's school system or the student's charter school for such course as if the student were taking the course from the student's school system or the student's charter school.

(e)(1) The department shall set appropriate fees for one-credit and half-credit courses offered by a local school system or a charter school to another local school system or charter school pursuant to this Code section.

(2) The department shall proportionally reduce the fee for any student who withdraws from a course prior to the end of the course pursuant to paragraph (4) of subsection (d) of this Code section.

(3) For each student enrolled in a course included in the clearing-house, and not later than the last day of that course, the department shall deduct the amount of the fee for that course from the student's school system or charter school allotment and shall pay that amount to the local school system or charter school delivering the course.

(4) From the funds received pursuant to paragraph (3) of this subsection, the local school system or charter school delivering the course shall pay the teacher conducting the course such additional amount of compensation based on the number of students taking the course and the course fee.

(f) The grade for a student who enrolls in a course included in the clearing-house shall be assigned by the local school system or charter

school that delivers the course and shall be transmitted by that school system or charter school to the student's school system or the student's charter school.

(g) The department may determine the manner in which a course included in the clearing-house may be offered as a dual enrollment program, may be offered to students who are enrolled in nonpublic schools or a home study program pursuant to Code Section 20-2-690, or may be offered at times outside the normal school day or school week, including any necessary additional fees and methods of payment for a course so offered.

(h) The department shall promulgate rules and regulations for the implementation of this Code section. The department may coordinate the clearing-house established pursuant to this Code section with the Georgia Virtual School established pursuant to Code Section 20-2-319.1.

(i) Nothing in this Code section shall prohibit a local school system or charter school from offering an interactive distance learning course or other distance learning course using a computer based method through any means other than the clearing-house established and maintained under this Code section. (Code 1981, § 20-2-319.3, enacted by Ga. L. 2012, p. 660, § 1/HB 175; Ga. L. 2013, p. 141, § 20/HB 79; Ga. L. 2013, p. 1061, § 21/HB 283; Ga. L. 2015, p. 1376, § 30/HB 502.)

The 2013 amendments. — The first 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, revised punctuation in this Code section. The second 2013 amendment, effective July 1, 2013, substituted “state charter school” for “commission charter school” in paragraph (b)(1); inserted “for such course” near the middle of paragraph (d)(5); added “offered by a

local school system or a charter school to another local school system or charter school pursuant to this Code section” in paragraph (e)(1); and deleted “as set by the department” following “amount of compensation” in paragraph (e)(4).

The 2015 amendment, effective July 1, 2015, substituted “subsection (c)” for “subsection (b)” in paragraph (b)(2).

20-2-319.4. Virtual instruction programs; notice of opportunities; mechanisms for compliance; curriculum plan.

(a) Beginning with the 2013-2014 school year, each local school system shall provide opportunities to all students in grades three through 12 enrolled in public schools within its boundaries for participation in part-time and full-time virtual instruction program options. Written notice of such opportunities, including an open enrollment period for full-time students of at least 90 days and not ending earlier than 30 days prior to the first day of the school year, shall be provided directly to parents of all students. The purpose of the program shall be to make quality virtual instruction available to students using online

and distance learning technology in the nontraditional classroom. The program shall provide at least three options for:

- (1) Full-time virtual instruction for students enrolled in grades three through 12; and
- (2) Part-time virtual instruction for students enrolled in grades three through 12.

A virtual instruction program conducted by a local school system shall include specific provisions for at least two full-time options and one part-time option for students enrolled in dropout prevention and academic intervention programs or Department of Juvenile Justice education programs under Code Section 20-2-133.

(b) To provide students with the option of participating in virtual instruction programs as required by subsection (a) of this Code section, a local school system may apply one or all of the following mechanisms:

- (1) Facilitate enrollment in the Georgia Virtual School established pursuant to Code Section 20-2-319.1;
- (2) Facilitate enrollment in one or more courses pursuant to the clearing-house established pursuant to Code Section 20-2-319.3;
- (3) Enter into a contract with a provider for the provision of a full-time program under paragraph (1) of subsection (a) of this Code section or a part-time program under paragraph (2) of subsection (a) of this Code section; or
- (4) Enter into an agreement with another local school system or systems to allow the participation of its students in an approved virtual instruction program provided by such other local school system or systems. The agreement shall indicate a process for the transfer of funds.

Contracts and agreements entered into pursuant to paragraph (3) or (4) of this subsection may include multidistrict contractual arrangements that may be executed by a regional educational service agency for its member school systems.

(c) Each contract entered into pursuant to paragraph (3) of subsection (b) of this Code section with a provider shall at a minimum set forth a detailed curriculum plan that illustrates how students will be provided services for, and be measured for attainment of, proficiency in state requirements for content standards for each grade level and subject. (Code 1981, § 20-2-319.4, enacted by Ga. L. 2012, p. 893, § 5/SB 289; Ga. L. 2015, p. 1376, § 31/HB 502.)

The 2015 amendment, effective July 1, 2015, rewrote this Code section.

20-2-319.5. Report on assisting local boards in acquiring digital learning.

Reserved. Repealed by Ga. L. 2015, p. 1376, § 32/HB 502, effective July 1, 2015.

Editor's notes. — This Code section enacted by Ga. L. 2012, p. 893, § 5/SB was based on Code 1981, § 20-2-319.5, 289.

PART 15**MISCELLANEOUS PROVISIONS****20-2-320. Education Information Steering Committee; identification of data to implement Quality Basic Education Program; state-wide comprehensive educational information network.**

(a) There shall be a state-wide comprehensive educational information system which will provide for the accurate, seamless, and timely flow of information from local and regional education agencies, units of the University System of Georgia, and technical schools and colleges to the state. The system design shall include hardware, software, data, collection methods and times, training, maintenance, communications, security of data, and installation specifications and any other relevant specifications needed for the successful implementation of the system. The state-wide comprehensive educational information system shall not use a student's social security number or an employee's social security number in violation of state or federal law to identify a student or employee. Upon approval of the boards of the respective education agencies, such boards shall issue appropriate requests for proposals to implement a state-wide comprehensive educational information system, subject to appropriation by the General Assembly. The boards of the respective education agencies, at the direction of the Education Coordinating Council, shall initiate contracts with appropriate vendors and local units of administration for the procurement of services, purchase of hardware and software, and for any other purpose as directed by the Education Coordinating Council, consistent with appropriation by the General Assembly.

(b) The State Board of Education, the State Board of the Technical College System of Georgia, the Board of Regents of the University System of Georgia, and the Department of Early Care and Learning shall require an individual student record for each student enrolled which at a minimum includes the data specifications recommended by the steering committee and approved by the Education Coordinating Council. The Professional Standards Commission shall maintain an individual data record for each certificated person employed in a public school.

(c) For the purpose of this article, authorized educational agencies shall be the Department of Education; the Department of Early Care and Learning; the Board of Regents of the University System of Georgia; the Technical College System of Georgia; the Education Coordinating Council; the Professional Standards Commission; the Office of Student Achievement; the education policy and research components of the office of the Governor; the Office of Planning and Budget; the Senate Budget and Evaluation Office; and the House Budget and Research Office. Any information collected over the state-wide comprehensive educational information system, including individual student records and individual personnel records, shall be accessible by authorized educational agencies, provided that any information which is planned for collection over the system but which is temporarily being collected by other means shall also be accessible by authorized educational agencies and provided, further, that adequate security provisions are employed to protect the privacy of individuals. All data maintained for this system shall be used for educational purposes only. In no case shall information be released by an authorized educational agency which would violate the privacy rights of any individual student or employee. Information released by an authorized educational agency in violation of the privacy rights of any individual student or employee shall subject the authorized educational agency to all penalties under applicable state and federal law. Any information collected over the state-wide comprehensive educational information system which is not stored in an individual student or personnel record format shall be made available to the Governor and the House and Senate Appropriations Committees, the House Committee on Education, the Senate Education and Youth Committee, the House Committee on Higher Education, and the Senate Higher Education Committee, except information otherwise prohibited by statute. Data which are included in an individual student record or individual personnel record format shall be extracted from such records and made available in nonindividual record format for use by the Governor, committees of the General Assembly, and agencies other than authorized educational agencies.

(d) The Department of Education shall request sufficient funds annually for the operation, training of appropriate personnel, and maintenance and enhancements of the system.

(e) In a phased approach, the state-wide comprehensive educational information system shall be fully completed subject to appropriation by the General Assembly for this purpose. During the phased implementation of the system, highest priority shall be given to the electronic transmission of complete full-time equivalent counts, the uniform budgeting and accounting system, and complete salary data for each local school system. All pre-kindergarten programs, local units of

administration for grades kindergarten through 12, technical schools and colleges, public libraries, public colleges and universities, and regional educational service agencies shall provide data as required by their respective boards and agencies. Notwithstanding any provision of this Code section to the contrary, no local school system shall earn funds under Code Section 20-2-186 for superintendents, assistant superintendents, or principals if the local unit of administration fails to comply with the provisions of this Code section.

(f) Notwithstanding any other provision of law, the Department of Education is authorized to and shall obtain and provide to the Department of Driver Services, in a form to be agreed upon between the Department of Education and the Department of Driver Services, enrollment, expulsion, and suspension information regarding minors 15 through 17 years of age reported pursuant to Code Sections 20-2-690 and 20-2-697, to be used solely for the purposes set forth in subsection (a.1) of Code Section 40-5-22. (Code 1981, § 20-2-306, enacted by Ga. L. 1985, p. 1657, § 1; Code 1981, § 20-2-320, as redesignated by Ga. L. 1987, p. 1169, § 1; Ga. L. 1988, p. 1848, § 3; Ga. L. 1990, p. 1256, § 3; Ga. L. 1997, p. 760, § 3; Ga. L. 2000, p. 618, § 58; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 107, § 8; Ga. L. 2004, p. 645, § 16; Ga. L. 2005, p. 60, § 20/HB 95; Ga. L. 2005, p. 798, § 5/SB 35; Ga. L. 2008, p. VO1, § 1-10/HB 529; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 1015, § 7/SB 344; Ga. L. 2011, p. 632, § 3/HB 49; Ga. L. 2014, p. 866, § 20/SB 340; Ga. L. 2015, p. 5, § 20/HB 90; Ga. L. 2015, p. 60, § 3-1/SB 100.)

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, in subsection (c), in the first sentence, substituted “Senate Budget and Evaluation Office” for “Senate Budget Office”, substituted “House Budget and Research Office” for “House Budget Office”, and substituted “House and Senate Appropriation Committees, the House Committee on Education, the Senate Education and Youth Committee, the House Committee on Higher Education, and the Senate Higher Education Committee” for “House and Senate Appropriations, Education, Education and Youth, and Higher Education committees” in the last sentence.

The 2015 amendments. — The first 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize,

and correct the Code, in subsection (c), substituted “and the House Budget and Research Office” for “the House Budget and Research Office; the House Research Office; and the Senate Research Office” in the first sentence, and substituted “Appropriations Committees” for “Appropriation Committee” in the next-to-last sentence. The second 2015 amendment, effective July 1, 2015, substituted “Driver Services” for “Public Safety” and substituted “expulsion” for “attendance” in subsection (f).

Editor’s notes. — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides in part, that the amendment of this Code section shall apply to offenses which occur on or after July 1, 2015.

20-2-324. Internet safety policies in public schools.

Cross references. — Prohibition against depiction of minors in obscene ways, § 16-11-40.1.

20-2-324.1. Concussion management and return to play policies for youth athletes.

(a) As used in this Code section, the term:

(1) “Health care provider” means a licensed physician or another licensed individual under the supervision of a licensed physician, such as a nurse practitioner, physician assistant, or certified athletic trainer who has received training in concussion evaluation and management.

(2) “Public recreation facility” means a public facility that conducts an organized youth athletic activity in which a participation fee and registration are required.

(3) “Youth athlete” means a participant in a youth athletic activity who is seven years of age or older and under 19 years of age.

(4) “Youth athletic activity” means an organized athletic activity in which the majority of the participants are youth athletes and are engaging in an organized athletic game or competition against another team, club, or entity or in practice or preparation for an organized game or competition against another team, club, or entity. This term shall not include college or university activities or an activity which is entered into for instructional purposes only, an athletic activity that is incidental to a nonathletic program, youth athletic activities offered through a church or synagogue, or a lesson; provided, however, that colleges, universities, churches, and synagogues, and any other entities that conduct youth athletic activities but are not subject to this Code section are strongly encouraged to establish and implement a concussion management and return to play policy.

(b) Each local board of education, administration of a nonpublic school, and governing body of a charter school shall adopt and implement a concussion management and return to play policy comprising not less than the following components:

(1) Prior to the beginning of each athletic season of a youth athletic activity, provide an information sheet to all youth athletes’ parents or legal guardians which informs them of the nature and risk of concussion and head injury;

(2) If a youth athlete participating in a youth athletic activity exhibits symptoms of having a concussion, that athlete shall be

removed from the game, competition, tryout, or practice and be evaluated by a health care provider; and

(3) If a youth athlete is deemed by a health care provider to have sustained a concussion, the coach or other designated personnel shall not permit the youth athlete to return to play until the youth athlete receives clearance from a health care provider for a full or graduated return to play.

(c) Each public recreation facility shall, at the time of registration for a youth athletic activity, provide an information sheet to all youth athletes’ parents or legal guardians which informs them of the nature and risk of concussion and head injury; provided, however, that public recreation facilities are strongly encouraged to establish and implement a concussion management and return to play policy.

(d) The Department of Public Health shall endorse one or more concussion recognition education courses to inform Georgia citizens of the nature and risk of concussions in youth athletics, at least one of which shall be available online. Such course or courses may include education and training materials made available, at no charge, by the federal Centers for Disease Control and Prevention or other training materials substantively and substantially similar to such materials.

(e) This Code section shall not create any liability for, or create a cause of action against, a local board of education, the governing body of a nonpublic school, the governing body of a charter school, or a public recreation facility or the officers, employees, volunteers, or other designated personnel of any such entities for any act or omission to act related to the removal or nonremoval of a youth athlete from a game, competition, tryout, or practice pursuant to this Code section; provided, however, that for purposes of this subsection, other designated personnel shall not include health care providers unless they are acting in a volunteer capacity. (Code 1981, § 20-2-324.1, enacted by Ga. L. 2013, p. 89, § 2/HB 284.)

Effective date. — This Code section became effective January 1, 2014.

Editor’s notes. — Ga. L. 2013, p. 89, § 1/HB 284, not codified by the General

Assembly, provides: “This Act shall be known and may be referred to as the ‘Return to Play Act of 2013.’”

PART 16

BUILDING RESOURCEFUL INDIVIDUALS TO DEVELOP GEORGIA’S ECONOMY

20-2-326. Definitions.

For purposes of this part, the term:

(1) “Articulation” means agreement between a high school and a postsecondary institution regarding the awarding of both secondary and postsecondary credit for a dual enrollment course.

(2) “Choice technical high school” means a high school, other than the high school to which a student is assigned by virtue of his or her residence and attendance zone, which is designed to prepare a high school student for postsecondary education and for employment in a career field. A choice technical high school may be operated by a local school system or a technical school or college. A choice technical high school may also be operated as a charter school under a governance board composed of parents, employers, and representatives from the local board of education.

(3) “Chronically low-performing high school” means a public high school in this state that has a graduation rate of less than 60 percent for three consecutive years, as determined in accordance with methodology established by the National Governors Association’s Compact on High School Graduation Data, or that has received an unacceptable rating for three consecutive years, as defined by the Office of Student Achievement.

(4) “College and career academy” means a specialized charter school established by a partnership which demonstrates a collaboration between business, industry, and community stakeholders to advance workforce development between one or more local boards of education, a private individual, a private organization, or a state or local public entity in cooperation with one or more postsecondary institutions and approved by the State Board of Education in accordance with Article 31 of this chapter or the State Charter Schools Commission in accordance with Article 31A of this chapter.

(5) “Focused program of study” means a rigorous academic core combined with a focus in mathematics and science; a focus in humanities, fine arts, and foreign language; or a coherent sequence of career pathway courses that is aligned with graduation requirements established by the State Board of Education and content standards established pursuant to Part 2 of this article that prepares a student for postsecondary education or immediate employment after high school graduation.

(6) “Graduation plan” means a student specific plan developed in accordance with subsection (c) of Code Section 20-2-327 detailing the courses necessary for a high school student to graduate from high school and to successfully transition to postsecondary education and the work force.

(7) “Industry certification” means a process of program evaluation that ensures that individual programs meet industry standards in

the areas of curriculum, teacher qualification, lab specifications, equipment, and industry involvement.

(8) “Public college or university” means a two-year or four-year college, university, or other institution under the auspices of the Board of Regents of the University System of Georgia.

(9) “Small learning community” means an autonomous or semiautonomous small learning environment within a large high school which is made up of a subset of students and teachers for a two-year, three-year, or four-year period. The goal of a small learning community is to achieve greater personalization of learning with each community led by a principal or instructional leader. A small learning community blends academic studies around a broad career or academic theme where teachers have common planning time to connect teacher assignments and assessments to college and career readiness standards. Students voluntarily apply for enrollment in a small learning community but must be accepted, and such enrollment must be approved by the student’s parent or guardian. A small learning community also includes a college and career academy organized around a specific career theme which integrates academic and career instruction, provides work based learning opportunities, and prepares students for postsecondary education and employment, with support through partnerships with local employers, community organizations, and postsecondary institutions.

(10) “Teacher adviser system” means a system where an individual professional educator in the school assists a small group of students and their parents or guardians throughout the students’ high school careers to set postsecondary goals and help them prepare programs of study, utilizing assessments and other data to track academic progress on a regular basis; communicates frequently with parents or guardians; and provides advisement, support, and encouragement as needed.

(11) “Technical school or college” means a school, college, institution, or other branch of the Technical College System of Georgia. (Code 1981, § 20-2-326, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 421, § 2/SB 161; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2013, p. 1061, § 22/HB 283; Ga. L. 2015, p. 1376, § 33/HB 502.)

The 2013 amendment, effective July 1, 2013, substituted “received an unacceptable rating” for “not made adequate yearly progress” near the end of paragraph (3); and substituted “State Charter Schools Commission” for “Georgia Charter

Schools Commission” near the end of paragraph (4).

The 2015 amendment, effective July 1, 2015, substituted “content standards” for “curriculum requirements” in the middle of paragraph (5).

20-2-327. Recognition of advanced proficiency/honors courses; counseling and development of individual graduation plans.

(a) Student performance at the advanced proficiency/honors level on any assessments required for purposes of high school graduation shall be recognized as:

(1) Meeting postsecondary entrance test requirements; and

(2) Qualifying students to enroll in credit-bearing postsecondary coursework in accordance with policies and requirements established by the State Board of Education, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia.

(b) Secondary and postsecondary credit shall be awarded immediately upon successful completion of any articulated or dual enrollment course in accordance with policies and requirements established by the State Board of Education, the Board of Regents of the University System of Georgia, and the State Board of the Technical College System of Georgia.

(c) Beginning with the 2010-2011 school year, students in the sixth, seventh, and eighth grades shall be provided counseling, advisement, career awareness, career interest inventories, and information to assist them in evaluating their academic skills and career interests. Before the end of the second semester of the eighth grade, students shall develop an individual graduation plan in consultation with their parents, guardians, or individuals appointed by the parents or guardians to serve as their designee. High school students shall be provided guidance, advisement, and counseling annually that will enable them to successfully complete their individual graduation plans, preparing them for a seamless transition to postsecondary study, further training, or employment. An individual graduation plan shall:

(1) Include rigorous academic core subjects and focused course work in mathematics and science or in humanities, fine arts, and foreign language or sequenced career pathway course work;

(2) Incorporate provisions of a student's Individualized Education Program (IEP), where applicable;

(3) Align educational and broad career goals and a student's course of study;

(4) Be based on the student's selected academic and career focus area as approved by the student's parent or guardian;

(5) Include experience based, career oriented learning experiences which may include, but not be limited to, participation in work based

learning programs such as internships, apprenticeships, cooperative education, service learning, and employability skill development;

(6) Include opportunities for postsecondary studies through articulation, dual enrollment, and joint enrollment;

(7) Be flexible to allow change in the course of study but be sufficiently structured to meet graduation requirements and qualify the student for admission to postsecondary education; and

(8) Be approved by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser.

An individual graduation plan shall be reviewed annually, and revised, if appropriate, upon approval by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser. An individual graduation plan may be changed at any time throughout a student's high school career upon approval by the student and the student's parent or guardian with guidance from the student's school counselor or teacher adviser. (Code 1981, § 20-2-327, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 632, § 3/HB 49; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2014, p. 341, § 4/HB 766; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of paragraph (c)(5) for the former provisions, which read: "Include experience based, career oriented learning experiences which may include, but not be limited to, internships, apprenticeships, mentoring, co-op education, and service learning;"

The 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, revised language in paragraph (a)(2).

Editor's notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Work Based Learning Act.'"

20-2-329. Requirements for high schools that receive a reform grant.

High schools that receive a reform grant pursuant to Code Section 20-2-328 shall:

(1) Provide focused programs of study which are designed to provide a well-rounded education for students by fostering artistic creativity, critical thinking, and self-discipline through the teaching of academic content, knowledge, and skills that students will use in the workplace, further education, and life. The focused programs of study, whether provided at a choice technical high school, a college and career academy, a traditional high school, or on site at a technical school or college or a public college or university, shall be aligned with graduation requirements established by the State Board of Education

and content standards established pursuant to Part 2 of this article, including, at a minimum, four years of mathematics, Algebra I and higher, and four years of English, with an emphasis on developing reading and writing skills to meet college and career readiness standards;

(2) Implement a teacher adviser system;

(3) Provide students in the ninth through twelfth grades information on educational programs offered in high school, in technical and community colleges, in colleges and universities, and through work based learning programs and how these programs can lead to a variety of career fields. Local school systems shall provide career awareness and exploratory opportunities such as field trips, speakers, educational and career information centers, job shadowing, and classroom centers to assist students and their parents or guardians, with guidance from school counselors and teacher advisers, in revising, if appropriate, the individual graduation plan developed pursuant to subsection (c) of Code Section 20-2-327;

(4) Enroll students no later than ninth grade into one of the following options for earning a high school diploma and preparing students for postsecondary education and a career which will include a structured program of academic study with in-depth studies in:

(A) Mathematics and science;

(B) Humanities, fine arts, and foreign language; or

(C) A career pathway that leads to passing an employer certification exam in a high demand, high skill, or high wage career field or to an associate's degree or bachelor's degree.

The awarding of a special education diploma to any disabled student who has not completed all of the requirements for a high school diploma, but who has completed his or her Individualized Education Program (IEP) shall be deemed to meet the requirements of this paragraph;

(5) Implement the at-risk model program developed by the State Board of Education pursuant to subsection (b) of Code Section 20-2-328;

(6) Comply with the rules and regulations promulgated by the State Board of Education for chronically low-performing high schools pursuant to subsection (c) of Code Section 20-2-328; and

(7) Schedule annual conferences to assist students and their parents or guardians in setting educational and career goals and creating individual graduation plans beginning with students in the eighth grade and continuing through high school. These conferences

shall include, but are not limited to, assisting the student in identifying educational and career interests and goals, selecting a career and academic focus area, and developing an individual graduation plan. (Code 1981, § 20-2-329, enacted by Ga. L. 2010, p. 186, § 1/HB 400; Ga. L. 2011, p. 421, § 4/SB 161; Ga. L. 2014, p. 341, § 5/HB 766; Ga. L. 2015, p. 1376, § 34/HB 502.)

The 2014 amendment, effective July 1, 2014, in paragraph (3), substituted “work based learning” for “apprenticeship” in the first sentence and substituted “provide career awareness and exploratory opportunities such as” for “provide opportunities for” near the middle of the second sentence.

The 2015 amendment, effective July

1, 2015, substituted “content standards” for “curriculum requirements” in the second sentence of paragraph (1).

Editor’s notes. — Ga. L. 2014, p. 341, § 1/HB 766, not codified by the General Assembly, provides: “This Act shall be known and may be cited as the ‘Work Based Learning Act.’”

PART 17

STATE EDUCATION FINANCE STUDY COMMISSION

20-2-329.2 through 20-2-329.8.

Repealed by Ga. L. 2011, p. 647, § 1/HB 192, effective March 31, 2013.

Editor’s notes. — Former Code Section 20-2-329.2 pertained to the Georgia Education Leadership Academy. The former Code section was based on Ga. L. 1985, p. 1657, § 3 and was repealed by Ga. L. 1985, p. 1657, § 4, effective July 1 1986.

This part consisted of Code Sections 20-2-329.2 through 20-2-329.8, relating to the state education finance study commission, and was based on Code 1981, § 20-2-329.2 through 20-2-329.8, enacted by Ga. L. 2011, p. 647, § 1/HB 192.

ARTICLE 8

CONSOLIDATION OF INDEPENDENT AND COUNTY SCHOOL SYSTEMS

20-2-370. Referendum on repeal of special school law and consolidation of systems.

Editor’s notes. — As of July 1, 2015, the independent school systems are Atlanta, Bremen, Buford, Calhoun, Carrollton, Cartersville, Chickamauga,

Commerce, Dalton, Decatur, Dublin, Gainesville, Jefferson, Marietta, Pelham, Rome, Social Circle, Thomasville, Trion, Valdosta, and Vidalia.

ARTICLE 9

LOCAL PUBLIC SCHOOL FINANCES

PART 2

RECEIPT AND DISBURSEMENT OF FUNDS

20-2-411. School fund kept separate; use of funds; separation of school taxes; investments.

When the public school fund shall be received and receipted for, it shall be the duty of the officers authorized by law to receive such fund and keep it separate and distinct from other funds. The school funds shall be used for educational purposes and may be used to pay the salaries of personnel and to pay for the utilization of school facilities, including school buses, for extracurricular and interscholastic activities, including literary events, music and athletic programs within individual schools and between schools in the same or in different school systems when such activities are sponsored by local boards of education as an integral part of the total school program, and for no other purpose. When taxes are paid into the state treasury, the comptroller general shall in no case receipt a tax collector for them until that part of the tax so paid in which was raised for school purposes is separated in amount from the gross amount paid in. It shall be lawful to invest school funds in securities of the states, United States, or municipalities of this state or in certificates of deposit. (Ga. L. 1919, p. 288, § 115; Code 1933, § 32-942; Ga. L. 1969, p. 721, § 1; Ga. L. 1975, p. 94, § 1; Ga. L. 1985, p. 149, § 20; Ga. L. 2013, p. 141, § 20/HB 79.)

The 2013 amendment, effective April 23, 2014, part of an Act to revise, modernize, and correct the Code, revised language in this Code section.

ARTICLE 11

PUBLIC SCHOOL PROPERTY AND FACILITIES

PART 3

GEORGIA EDUCATION AUTHORITY
(SCHOOLS)**20-2-553. Powers of authority.**

The authority shall have the power:

- (1) To have a seal and alter it at pleasure;

(2) To acquire by purchase, lease, or otherwise and to hold, lease, sell, and dispose of real and personal property of every kind and character for its corporate purposes;

(3) To acquire in its own name by purchase, on such terms and conditions, and in such manner as it may deem proper, or by condemnation in accordance with any and all existing laws applicable to the condemnation of property for public use, real property or rights of easements therein or franchises necessary or convenient for its corporate purposes and to use them so long as its corporate existence shall continue and to lease or make contracts for the use of or dispose of them in any manner it deems to the best advantage of the authority, the authority being under no obligation to accept and pay for any property condemned under this part, except from the funds provided under the authority of this part. In any proceedings to condemn, such orders may be made by the court having jurisdiction of the action or proceeding as may be just to the authority and to the owners of the property to be condemned; and no property shall be acquired under this part upon which any lien or other encumbrance exists unless at the time such property is so acquired a sufficient sum of money is deposited in trust to pay and redeem the fair value of such lien or encumbrance. If the authority shall deem it expedient to construct any project on lands which are subject to the control of the public school system of the state or of any county board of education, city board of education, or governing body of an independent or quasi-independent district or system or local unit of administration, the Governor, in the case of the state, or the boards of education of counties or cities, or the equivalent governing authorities of independent school districts or systems are authorized to execute for and in behalf of the state or the various county boards of education, city boards of education, or governing bodies of independent districts or systems, as the case may be, a lease upon such lands to the authority for such parcel or parcels as shall be needed for a period not to exceed 50 years, at a nominal rental of \$1.00 per year. If the authority shall deem it expedient to construct any project on any other lands the title to which shall then be in the state, the Governor is authorized to convey, for and in behalf of the state, title to such lands to the authority, upon payment into the state treasury for the credit of the general fund of the state of the reasonable value of such lands, such value to be determined by three appraisers to be agreed upon by the Governor and the chairperson of the authority. Further, if the authority shall deem it expedient to construct any project on any other lands the title to which shall then be in any county, municipality, or other governmental subdivision of the state, the proper authorities of such county, municipality, or governmental subdivision are authorized to convey, for and in behalf of such county, municipal-

ity, or governmental subdivision, title to such lands to the authority, upon payment to the proper fiscal officer of the county, municipality, or other governmental subdivision of the reasonable value of such lands, such value to be determined by three appraisers to be agreed upon between such governmental authorities and the chairperson of the authority;

(4) To appoint and select officers, agents, and employees, including engineering, architectural, and construction experts, fiscal agents, and attorneys, and to fix their compensation;

(5) To make contracts, agreements of sale, and leases and to execute all instruments necessary or convenient, including contracts for construction of projects, agreements for the sale of projects, and leases of projects or contracts for the use of projects which the authority causes to be erected or acquired; and any and all political subdivisions, departments, institutions, or agencies of the state are authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable. Without limiting the generality of the foregoing, authority is specifically granted to the county boards of education, city boards of education, or governing bodies of independent districts or systems, for and on behalf of the units and institutions within their respective counties, cities, or districts, and to the authority to enter into contracts, agreements of sale, and lease agreements for the purchase or use of any structure, building, or facilities of the authority for a term not exceeding 50 years; and the board of education or equivalent governing body for and on behalf of the respective political subdivision may obligate itself and its successors to use only such structure, building, or facility and none other and so long as such property is used by such political subdivision to pay an amount to be determined from year to year for the use of such property so leased and also to obligate itself and its successors as a part of the lease contract to pay the cost of maintaining, repairing, and operating the property so leased from the authority;

(6) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, operate, and manage projects, as defined in paragraph (4) of subsection (a) of Code Section 20-2-551, to be located on property owned by or leased by the authority, the cost of any such project to be paid in whole or in part from the proceeds of revenue bonds of the authority, from such proceeds and any grant from the United States or any agency or instrumentality thereof, or from any other source;

(7) To accept loans or grants of money or materials or property of any kind from the United States or any agency or instrumentality thereof upon such terms and conditions as the United States or such agency or instrumentality may impose;

(8) To borrow money for any of its corporate purposes and to issue negotiable revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of such bonds and for the rights of the holders thereof;

(9) To exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the Constitution and laws of this state;

(10) To issue various types of bonds with various federal tax consequences and to apply for and participate in any federal program which provides financial or other benefits or is supportive of functions of the authority. For purposes of federal law and without limiting the powers of the authority to issue other types of bonds and to participate in federal programs, the authority may act as the state education agency and may issue Qualified Zone Academy Bonds, Qualified School Construction Bonds, or Build America Bonds or, in its discretion, permit other authorized governmental bodies to issue Qualified Zone Academy Bonds, Qualified School Construction Bonds, or Build America Bonds. In participating in any federal program, the authority may apply for and receive funds, make certifications and designations, and do all other things necessary or convenient in the opinion of the authority to participate in or obtain the benefits of federal programs, including programs of bond finance provided under federal law;

(11) Deposit, or arrange for, federal funds in any form to be deposited into the sinking fund provided for in Code Section 20-2-567; and

(12) To do all things necessary or convenient to carry out the powers expressly given in this part. (Ga. L. 1951, p. 241, § 4; Ga. L. 1956, p. 11, § 1; Ga. L. 1974, p. 1215, § 6; Ga. L. 1983, p. 3, § 53; Ga. L. 2005, p. 319, § 1/HB 372; Ga. L. 2010, p. 1001, § 3/HB 936; Ga. L. 2015, p. 385, § 2-5/HB 252.)

The 2015 amendment, effective July 1, 2015, deleted subsection (a) designation and deleted former subsection (b), which read: "The validity of any bonds issued by the authority for projects certified as eligible for state development assistance under Code Section 45-12-170 and issued prior to the time the first general obligation debt was incurred under Article VII,

Section III, Paragraph I of the Constitution of 1945 shall not be impaired; but no future such bonds shall be issued."

Editor's notes. — Ga. L. 2015, p. 385, § 1-1/HB 252, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'J. Calvin Hill, Jr., Act.'"

ARTICLE 13

SUSPENDING AND REOPENING LOCAL SCHOOL SYSTEMS

20-2-620 through 20-2-627.

Reserved. Repealed by Ga. L. 1990, p. 1344, § 1, effective July 1, 1990.

Editor's notes. — Ga. L. 2014, p. 866, § 20/SB 340, effective April 29, 2014, reserved the designation of this article.

ARTICLE 15

STUDENT DATA PRIVACY, ACCESSIBILITY, AND
TRANSPARENCY

Effective date. — This article becomes effective July 1, 2016.

Editor's notes. — The former article, relating to school censuses, was repealed by Ga. L. 2012, p. 358, § 29/HB 706, effective July 1, 2012, and was based on Ga. L. 1919, p. 288, §§ 71, 72; Code 1933, §§ 32-1601, 32-1602; Ga. L. 1945, p. 210, § 1; Ga. L. 1945, p. 441, § 1; Ga. L. 1969, p. 838, § 3.

Ga. L. 2015, p. 1031, § 3-1(a)/SB 89, not codified by the General Assembly, pro-

vides: “(a) Part I of this Act shall become effective on July 1, 2016; provided, however, that to the extent any provision of this Act conflicts with a term of a contract entered into by a state agency, local board of education, or operator in effect prior to July 1, 2016, such provision shall not apply to the state agency, local board of education, or the operator subject to such agreement until the expiration, amendment, or renewal of such agreement.”

20-2-660. (Effective July 1, 2016) Short title.

This article shall be known and may be cited as the “Student Data Privacy, Accessibility, and Transparency Act.” (Code 1981, § 20-2-661, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-661. (Effective July 1, 2016) Legislative intent and findings.

(a) The General Assembly acknowledges that student data is a vital resource for parents, teachers, and school staff, and it is the intent of the General Assembly to ensure that student data is safeguarded and that students’ and parents’ privacy is honored, respected, and protected.

(b) The General Assembly finds that:

(1) Student data allows parents and students to make more informed choices about educational programs and to better gauge a student’s educational progress and needs;

(2) Teachers and school staff utilize student data in planning responsive education programs and services, scheduling students

into appropriate classes, and completing reports for educational agencies;

(3) Student information is critical in helping educators assist students in successfully graduating from high school and preparing to enter the workforce or postsecondary education;

(4) In emergencies, certain information should be readily available to school officials and emergency personnel to assist students and their families;

(5) A limited amount of this information makes up a student's permanent record or transcript; and

(6) Student information is important for educational purposes, and it is also critically important to ensure that student information is protected, safeguarded, kept private, and used only by appropriate educational authorities to serve the best interests of the student. (Code 1981, § 20-2-661, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-662. (Effective July 1, 2016) Definitions.

As used in this article, the term:

(1) "Aggregate student data" means data that is not personally identifiable and that is collected or reported at the group, cohort, or institutional level.

(2) "De-identified data" means a student data set that is not student personally identifiable information because the local board of education or department or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

(3) "Department" means the Department of Education.

(4) "Education record" means an education record as defined in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, 20 U.S.C. Section 1232g; and 34 C.F.R. Part 99.3. An education record does not include the types of student data excepted in FERPA, does not include student data collected by an operator when it is used for internal operations purposes, does not include student data that is not formatted for or expected to be accessed by school, local board of education, or department employees, nor does it include student data that a local board of education determines cannot reasonably be made available to the parent or eligible student.

(5) “Eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education.

(6) “K-12 school purposes” means purposes that take place at the direction of the K-12 school, teacher, or local board of education or aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, preparing for postsecondary education or employment opportunities, and collaboration between students, school personnel, or parents, or are for the use and benefit of the school.

(7) “Online service” includes cloud computing services.

(8) “Operator” means any entity other than the department, local boards of education, the Georgia Student Finance Commission, or schools to the extent that the entity:

(A) Operates an Internet website, online service, online application, or mobile application with actual knowledge that the website, service, or application is used for K-12 school purposes and was designed and marketed for K-12 school purposes to the extent that it is operating in that capacity; and

(B) Collects, maintains, or uses student personally identifiable information in a digital or electronic format.

(9) “Provisional student data” means new student data proposed for inclusion in the state data system.

(10) “State-assigned student identifier” means the unique student identifier assigned by the state to each student that shall not be or include the social security number of a student in whole or in part.

(11) “State data system” means the department state-wide longitudinal data system established pursuant to Code Section 20-2-320.

(12) “Student data” means information regarding a K-12 student who is a resident of this state that is collected and maintained at the individual student level in this state, including but not limited to:

(A) Data descriptive of a student in any media or format, including but not limited to:

(i) The student’s first and last name;

(ii) The name of the student’s parent or other family members;

(iii) The physical address, email address, phone number, or other information that allows physical or online contact with the student or student’s family;

(iv) A student’s personal identifier, such as the student number, when used for identification purposes;

(v) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

(vi) State, local, school, or teacher administered assessment results, including participation information;

(vii) Transcript information including but not limited to courses taken and completed, course grades and grade point average, credits earned, degree, diploma, credential attainment, or other school exit information;

(viii) Attendance and mobility information between and within local school systems in this state;

(ix) The student's sex, race, and ethnicity;

(x) Program participation information required by state or federal law;

(xi) Disability status;

(xii) Socioeconomic information;

(xiii) Food purchases; or

(xiv) Emails, text messages, documents, search activity, photos, voice recordings, and geolocation information; or

(B) Such information that:

(i) Is created or provided by a student, or the student's parent or legal guardian, to an employee or agent of the school, local board of education, or the department or to an operator in the course of the student's or parent's or legal guardian's use of the operator's site, service, or application for K-12 school purposes;

(ii) Is created or provided by an employee or agent of the school or local board of education, including to an operator in the course of the employee's or agent's use of the operator's site, service, or application for K-12 school purposes; or

(iii) Is gathered by an operator through the operation of an operator's site, service, or application for K-12 school purposes.

(13) "Student personally identifiable data" or "student personally identifiable information" or "personally identifiable information" means student data that personally identifies a student that, alone or in combination, is linked to information that would allow a reasonable person who does not have personal knowledge of the relevant circumstances to identify the student.

(14) "Targeted advertising" means presenting advertisements to a student where the advertisement is selected based on information

obtained or inferred from that student's online behavior, usage of applications, or student data. "Targeted advertising" does not include advertising to a student at an online location based upon that student's current visit to that location or single search query without collection and retention of a student's online activities over time. (Code 1981, § 20-2-662, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-663. (Effective July 1, 2016) Designation and role of chief privacy officer.

(a) The State School Superintendent shall designate a senior department employee to serve as the chief privacy officer of the department to assume primary responsibility for data privacy and security policy, including:

(1) Establishing department-wide policies necessary to assure that the use of technologies sustains, enhances, and does not erode privacy protections relating to the use, collection, and disclosure of student data;

(2) Ensuring that student data contained in the state data system is handled in full compliance with this article, the federal Family Educational Rights and Privacy Act, and other state and federal data privacy and security laws;

(3) Evaluating legislative and regulatory proposals involving use, collection, and disclosure of student data by the department;

(4) Conducting a privacy impact assessment on legislative proposals, regulations, and program initiatives of the department, including the type of personal information collected and the number of students affected;

(5) Coordinating with the Attorney General's office and other legal entities as necessary to ensure that state programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner;

(6) Preparing an annual report to the General Assembly on activities of the department that affect privacy, including complaints of privacy violations, internal controls, and other matters;

(7) Working with the department general counsel and other officials in engaging with stakeholders about the quality, usefulness, openness, and privacy of data;

(8) Establishing and operating a department-wide Privacy Incident Response Program to ensure that incidents involving depart-

ment data are properly reported, investigated, and mitigated, as appropriate;

(9) Establishing a model process and policy for any parent to file complaints of privacy violations or inability to access his or her child's education records against the responsible local board of education pursuant to Code Section 20-2-667; and

(10) Providing training, guidance, technical assistance, and outreach to build a culture of privacy protection, data security, and data practice transparency to students, parents, and the public among all state and local governmental education entities that collect, maintain, use, or share student data.

(b) The chief privacy officer may investigate issues of compliance with this article and with other state data privacy and security laws by the department and local boards of education and may:

(1) Have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the department that relate to programs and operations with respect to the responsibilities of the chief privacy officer under this Code section;

(2) Make such investigations and reports relating to the administration of the programs and operations of the department as are necessary or desirable; and

(3) In matters relating to compliance with federal laws, refer the matter to the appropriate federal agency and cooperate with any investigations by such federal agency. (Code 1981, § 20-2-663, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

U.S. Code. — The Family Educational Rights and Privacy Act, referred to in this Code section, is codified at 20 USCS § 1232g.

20-2-664. (Effective July 1, 2016) Role of department.

The department shall:

(1) Create, publish, and make publicly available a data inventory and dictionary or index of data elements with definitions of student personally identifiable data fields in the state data system to include, but not be limited to:

(A) Any student personally identifiable data required to be reported by state and federal education mandates;

(B) Any student personally identifiable data which is included or has been proposed for inclusion in the state data system with a statement regarding the purpose or reason for the proposed collection; and

(C) Any student data that the department collects or maintains with no current identified purpose;

(2) Develop, publish, and make publicly available policies and procedures for the state data system to comply with this article and other applicable state and federal data privacy and security laws, including the federal Family Educational Rights and Privacy Act. Such policies and procedures shall include, at a minimum:

(A) Restrictions on granting access to student data in the state data system, except to the following:

(i) Students and their parents, as provided by the collecting local board of education;

(ii) The authorized administrators, teachers, and other school personnel of local boards of education, and the contractors or other authorized entities working on their behalf, that enroll students who are the subject of the data and who require such access to perform their assigned duties;

(iii) The authorized staff of the department, and the contractors or other authorized entities working on behalf of the department, who require such access to perform their assigned duties as authorized by law or defined by interagency or other data sharing agreements; and

(iv) The authorized staff of other state agencies in this state as required or authorized by law, including contractors or other authorized entities working on behalf of a state agency that require such access to perform their duties pursuant to an interagency agreement or other data sharing agreement;

(B) Prohibitions against publishing student data other than aggregate data or de-identified data in public reports; and

(C) Consistent with applicable law, criteria for the approval of research and data requests from state and local agencies, the General Assembly, those conducting research including on behalf of the department, and the public that involve access to student personally identifiable information;

(3) Unless otherwise provided by law or approved by the State Board of Education, not transfer student personally identifiable data to any federal, state, or local agency or nongovernmental organization, except for disclosures incident to the following actions:

(A) A student transferring to another school or school system in this state or out of state or a school or school system seeking help with locating a transferred student;

(B) A student enrolling in a postsecondary institution or training program;

(C) A student registering for or taking a state, national, or multistate assessment where such data is required to administer the assessment;

(D) A student voluntarily participating in a program for which such a data transfer is a condition or requirement of participation;

(E) The federal government requiring the transfer of student data for a student classified as a “migrant” for related federal program purposes;

(F) A federal agency requiring student personally identifiable data to perform an audit, compliance review, or complaint investigation; or

(G) An eligible student or student’s parent or legal guardian requesting such transfer;

(4) Develop a detailed data security plan for the state data system that includes:

(A) Guidelines for authorizing access to the state data system and to student personally identifiable data including guidelines for authentication of authorized access;

(B) Privacy and security audits;

(C) Plans for responding to security breaches, including notifications, remediations, and related procedures;

(D) Data retention and disposal policies;

(E) Data security training and policies including technical, physical, and administrative safeguards;

(F) Standards regarding the minimum number of students or information that must be included in a data set in order for the data to be considered aggregated and, therefore, not student personally identifiable data subject to requirements in this article and in other federal and state data privacy laws;

(G) A process for evaluating and updating as necessary the data security plan, at least on an annual basis, in order to identify and address any risks to the security of student personally identifiable data; and

(H) Guidance for local boards of education to implement effective security practices that are consistent with those of the state data system;

(5) Ensure routine and ongoing compliance by the department with the federal Family Educational Rights and Privacy Act, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this article, including the performance of compliance audits for the department;

(6) Notify the Governor and the General Assembly annually of the following matters relating to the state data system:

(A) New provisional student data proposed for inclusion in the state data system:

(i) Any new provisional student data collection proposed by the department shall become a provisional requirement to allow local boards of education and their local data system vendors the opportunity to meet the new requirement; and

(ii) The department shall announce any new provisional student data collection to the general public for a review and comment period of at least 60 days;

(B) Changes to existing student personally identifiable data collections required for any reason, including changes to federal reporting requirements made by the United States Department of Education;

(C) A list of any special approvals granted by the department pursuant to subparagraph (C) of paragraph (3) of this Code section in the past year regarding the release of student personally identifiable data; and

(D) The results of any and all privacy compliance and security audits completed in the past year. Notifications regarding privacy compliance and security audits shall not include any information that would itself pose a security threat to the state or local student information systems or to the secure transmission of data between state and local systems by exposing vulnerabilities; and

(7) Develop policies and procedures to ensure the provision of at least annual notifications to eligible students and parents or guardians regarding student privacy rights under federal and state law. (Code 1981, § 20-2-664, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

U.S. Code. — The Family Educational Rights and Privacy Act, referred to in this Code section, is codified at 20 USCS § 1232g.

20-2-665. (Effective July 1, 2016) Prohibition on the reporting and collection of certain data.

(a) Unless required by state or federal law or in cases of health or safety emergencies, local boards of education shall not report to the department the following student data or student information:

- (1) Juvenile delinquency records;
- (2) Criminal records; or
- (3) Medical and health records.

(b) Unless required by state or federal law or in cases of health or safety emergencies, schools shall not collect the following data on students or their families:

- (1) Political affiliation;
- (2) Voting history;
- (3) Income, except as required by law or where a local board of education determines income information is required to apply for, administer, research, or evaluate programs to assist students from low-income families; or
- (4) Religious affiliation or beliefs. (Code 1981, § 20-2-665, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-666. (Effective July 1, 2016) Activities by operators; limitations.

(a) An operator shall not knowingly engage in any of the following activities with respect to such operator's site, service, or application without explicit written consent from the student's parent or guardian, or an eligible student:

- (1) Use student data to engage in behaviorally targeted advertising on the operator's site, service, or application or target advertising on any other site, service, or application when the targeting of the advertising is based upon any student data and state-assigned student identifiers or other persistent unique identifiers that the operator has acquired because of the use of such operator's site, service, or application;
- (2) Use information, including state-assigned student identifiers or other persistent unique identifiers, created or gathered by the operator's site, service, or application, to amass a profile about a student except in furtherance of K-12 school purposes. For purposes of this paragraph, "amass a profile" does not include collection and

retention of account records or information that remains under the control of the student, parent, or local board of education;

(3) Sell a student's data. This prohibition does not apply to the purchase, merger, or other type of acquisition of an operator by another entity, provided that the operator or successor entity continues to be subject to the provisions of this Code section with respect to previously acquired student data that is subject to this article; or

(4) Disclose student personally identifiable data without explicit written or electronic consent from a student over the age of 13 or a student's parent or guardian, given in response to clear and conspicuous notice of the activity, unless the disclosure is made:

(A) In furtherance of the K-12 school purposes of the site, service, or application; provided, however, that the recipient of the student data disclosed (i) shall not further disclose the student data unless done to allow or improve the operability and functionality within that student's classroom or school, and (ii) is legally required to comply with the requirements of this article and not use the student information in violation of this article;

(B) To ensure legal or regulatory compliance or protect against liability;

(C) To respond to or participate in judicial process;

(D) To protect the security or integrity of the entity's website, service, or application;

(E) To protect the safety of users or others or security of the site;

(F) To a service provider, provided that the operator contractually (i) prohibits the service provider from using any student data for any purpose other than providing the contracted service to, or on behalf of, the operator, (ii) requires such service provider to impose the same restrictions as in this paragraph on its own service providers, and (iii) requires the service provider to implement and maintain reasonable security procedures and practices as provided in subsection (b) of this Code section; or

(G) For an educational, public health, or employment purpose requested by the student's parent or guardian, provided that the information is not used or further disclosed for any purpose.

(b) An operator shall:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the student data to protect that information from unauthorized access, destruction, use, modification, or disclosure; and

(2) Delete a student's data within a reasonable timeframe not to exceed 45 days if the school or local board of education requests deletion of data under the control of the school or local board of education.

(c) Notwithstanding paragraph (4) of subsection (a) of this Code section, an operator may disclose student data, so long as paragraphs (1) to (3), inclusive, of subsection (a) of this Code section are not violated, under the following circumstances:

(1) If another provision of federal or state law requires the operator to disclose the student data, and the operator complies with applicable requirements of federal and state law in protecting and disclosing that information;

(2) For legitimate research purposes:

(A) As required by state or federal law and subject to the restrictions under applicable state and federal law; or

(B) As allowed by state or federal law and under the direction of a school, a local board of education, or the department, subject to compliance with subsection (a) of this Code section; or

(3) To a state agency, local board of education, or school, for K-12 school purposes, as permitted by state or federal law.

(d) Nothing in this Code section prohibits an operator from using student data, including student personally identifiable data, as follows:

(1) For maintaining, delivering, developing, supporting, evaluating, improving, or diagnosing the operator's site, service, or application;

(2) Within other sites, services, or applications owned by the operator, and intended for the school or student use, to evaluate and improve educational products or services intended for the school or student use;

(3) For adaptive learning or customized student learning purposes;

(4) For recommendation engines to recommend additional content or services to students within a school service's site, service, or application without the response being determined in whole or in part by payment or other consideration from a third party;

(5) To respond to a student's request for information or for feedback without the information or response being determined in whole or in part by payment or other consideration from a third party; or

(6) To ensure legal or regulatory compliance or to retain such data for these purposes.

(e) Nothing in this Code section prohibits an operator from using or sharing aggregate data or de-identified data as follows:

(1) For the development and improvement of the operator's site, service, or application or other educational sites, services, or applications; or

(2) To demonstrate the effectiveness of the operator's products or services, including their marketing.

(f) This Code section shall not be construed to limit the authority of a law enforcement agency to obtain any content or student data from an operator as authorized by law or pursuant to an order of a court of competent jurisdiction.

(g) This Code section does not apply to general audience Internet websites, general audience online services, general audience online applications, or general audience mobile applications, even if login credentials created for an operator's site, service, or application may be used to access those general audience sites, services, or applications.

(h) This Code section shall not be construed to limit Internet service providers from providing Internet connectivity to schools or students and their families.

(i) This Code section shall not be construed to prohibit an operator from marketing educational products directly to parents so long as the marketing did not result from the use of student data obtained without parental consent by the operator through the provision of services covered under this Code section.

(j) This Code section shall not be construed to impose a duty upon a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance of this Code section on those applications or software.

(k) This Code section shall not be construed to impose a duty upon a provider of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, to review or enforce compliance with this Code section by third-party content providers.

(l) This Code section shall not be construed to impede the ability of a student or parent or guardian to download, transfer, or otherwise save or maintain their own student data or documents.

(m) Nothing in this Code section or this article prevents the department or local board of education and their employees from recommending, directly or via a product or service, any educational materials, online content, services, or other products to any student or his or her family if the department or local board of education determines that such products will benefit the student and does not receive compensa-

tion for developing, enabling, or communicating such recommendations. (Code 1981, § 20-2-666, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-667. (Effective July 1, 2016) Parental and student review of education record; model policies.

(a) A parent shall have the right to inspect and review his or her child's education record maintained by the school or local board of education.

(b) A parent may request from the school or local board of education student data included in his or her child's education record, including student data maintained by an operator, except when the local board of education determines that the requested data maintained by the operator cannot reasonably be made available to the parent.

(c) Local boards of education shall provide a parent or guardian with an electronic copy of his or her child's education record upon request, unless the local board of education does not maintain a record in electronic format and reproducing the record in an electronic format would be unduly burdensome.

(d) A parent or eligible student shall have the right to request corrections to inaccurate education records maintained by a school or local board of education. After receiving a request demonstrating any such inaccuracy, the school or local board of education that maintains the data shall correct the inaccuracy and confirm such correction to the parent or eligible student within a reasonable amount of time.

(e) The rights contained in subsections (a) through (d) of this Code section shall extend also to eligible students seeking to access their own education records.

(f) The department shall develop model policies for local boards of education that:

(1) Support local boards of education in fulfilling their responsibility to annually notify parents of their right to request student information;

(2) Assist local boards of education with ensuring security when providing student data to parents;

(3) Provide guidance and best practices to local boards of education in order to ensure that local boards of education provide student data only to authorized individuals;

(4) Support local boards of education in their responsibility to produce education records and student data included in such educa-

tion records to parents and eligible students, ideally within three business days of the request; and

(5) Assist schools and local boards of education with implementing technologies and programs that allow a parent to view online, download, and transmit data specific to his or her child's education record.

(g)(1) The department shall develop model policies and procedures for a parent or eligible student to file a complaint with a local school system regarding a possible violation of rights under this article or under other federal or state student data privacy and security laws which shall ensure that:

(A) Each local school system designates at least one individual with responsibility to address complaints filed by parents or eligible students;

(B) A written response is provided to the parent's or student's complaint;

(C) An appeal may be filed with the local school superintendent; and

(D) An appeal for a final decision may be made to the local board of education.

(2) Within six months of adoption by the department of model policies and procedures pursuant to paragraph (1) of this subsection, each local board of education shall adopt policies and procedures that include, at a minimum, such department model policies and procedures.

(h) Nothing in this Code section shall authorize any additional cause of action beyond the process described in this Code section or as otherwise authorized by state law. (Code 1981, § 20-2-667, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

20-2-668. (Effective July 1, 2016) Rules and regulations.

(a) The State Board of Education may adopt rules and regulations necessary to implement the provisions of this article.

(b) As of July 1, 2016, any existing collection of student data by the department shall not be considered provisional student data. (Code 1981, § 20-2-668, enacted by Ga. L. 2015, p. 1031, § 1-1/SB 89.)

ARTICLE 16

STUDENTS

PART 1

SCHOOL ATTENDANCE

Subpart 1

Transfer Students

20-2-670. Requirements for transferring students beyond sixth grade; conditional admission; compliance.

(a) A transferring student applying for admission to a grade higher than the sixth grade shall as a prerequisite to admission present a certified copy of his or her academic transcript and disciplinary record from the school previously attended.

(b) In lieu of complying with the provision of subsection (a) of this Code section, a transferring student may be admitted on a conditional basis if he or she and his or her parent or legal guardian execute a document providing the name and address of the school last attended and authorizing the release of all academic and disciplinary records to the school administration. The parent or guardian shall be notified of the transfer of such records and shall, upon written request made within ten days of such notice, be entitled to receive a copy of such records. Within five days of the receipt of a copy of such records, the parent or guardian may make a written request for and shall be entitled to a hearing before the principal of the school or his or her designee which is the custodian of such records for the purpose of challenging the content of the records. The student or his or her parent or legal guardian shall also disclose on the same document as the release whether the child has ever been adjudicated guilty of the commission of a class A designated felony act or class B designated felony act, as defined in Code Section 15-11-2 and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed. Any form document to authorize the release of records which is provided by a school to a transferring student or such student's parent or legal guardian shall include a list of class A designated felony acts or class B designated felony acts. The student or his or her parent or legal guardian shall also disclose on the document whether the student is currently serving a suspension or expulsion from another school, the reason for such discipline, and the term of such discipline. If a student so conditionally admitted is found to be ineligible for enrollment pursuant to the

provisions of Code Section 20-2-751.2, or is subsequently found to be so ineligible, he or she shall be dismissed from enrollment until such time as he or she becomes so eligible.

(c) Every school system in this state shall be obligated to provide complete information to a requesting school pursuant to subsection (b) of this Code section within ten days of receipt of such request. (Code 1981, § 20-2-670, enacted by Ga. L. 1997, p. 1061, § 1; Ga. L. 1998, p. 128, § 20; Ga. L. 2000, p. 20, § 15; Ga. L. 2013, p. 294, § 4-33/HB 242.)

The 2013 amendment, effective January 1, 2014, in subsection (b), substituted “execute a document” for “executes a document” in the first sentence, inserted “class A” in the fourth and fifth sentences, inserted “or class B designated felony act,” and substituted “Code Section 15-11-2” for “Code Section 15-11-63” in the fourth sentence, and added “or class B designated felony acts” at the end of the fifth sentence. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

20-2-671. Transfer students who have committed felony acts; disclosure of act.

If any school administrator determines from the information obtained pursuant to Code Section 15-11-602 or 20-2-670 or from any other source that a student has committed a class A designated felony act or class B designated felony act, as defined in Code Section 15-11-2, such administrator shall so inform all teachers to whom the student is assigned that they may review the information in the student’s file provided pursuant to subsection (b) of Code Section 20-2-670 received from other schools or from the juvenile courts. Such information shall be kept confidential. (Code 1981, § 20-2-671, enacted by Ga. L. 1997, p. 1061, § 1; Ga. L. 2000, p. 20, § 16; Ga. L. 2013, p. 294, § 4-34/HB 242.)

The 2013 amendment, effective January 1, 2014, in the first sentence, substituted “Code Section 15-11-602” for “Code Section 15-11-63”, inserted “class A”, and inserted “or class B designated felony act, as defined in Code Section 15-11-2”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any

prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

Subpart 2

Compulsory Attendance

20-2-690. Educational entities; requirements for private schools and home study programs.

(a) This subpart recognizes the existence of public schools, private schools, and home study programs as educational entities.

(b) As used in this subpart, the term “private school” means an institution meeting the following criteria or requirements:

(1) The primary purpose of the institution is to provide education or, if the primary purpose of the institution is religious in nature, the institution shall provide the basic academic educational program specified in paragraph (4) of this subsection;

(2) The institution is privately controlled and operates on a continuing basis;

(3) The institution provides instruction each 12 months for the equivalent of 180 school days of education with each school day consisting of at least four and one-half school hours;

(4) The institution provides a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) Within 30 days after the beginning of each school year, it shall be the duty of the administrator of each private school to provide to the school superintendent of each local public school district which has residents enrolled in the private school a list of the name, age, and residence of each resident so enrolled. At the end of each school month, it shall be the duty of the administrator of each private school to notify the school superintendent of each local public school district of the name, age, and residence of each student residing in the public school district who enrolls or terminates enrollment at the private school during the immediately preceding school month. Such records shall indicate when attendance has been suspended and the grounds for such suspension. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22; and

(6) Any building used by the institution for private school purposes meets all health and safety standards established under state law and local ordinances.

(c) Parents or guardians may teach their children at home in a home study program which meets the following requirements:

(1) The parent, parents, or guardian must submit within 30 days after the establishment of a home study program and by September 1 annually thereafter a declaration of intent to utilize a home study program to the Department of Education, which shall provide for written or electronic submittal of such declaration of intent;

(2) The declaration shall include a list of the names and ages of the students who are enrolled in the home study program, the address where the home study program is located, the local school system in which the home study program is located, and a statement of the 12 month period that is to be considered the school year for that home study program. Enrollment records and reports shall not be used for any purpose except providing necessary enrollment information, except with the permission of the parent or guardian of a child, or pursuant to the subpoena of a court of competent jurisdiction;

(3) Parents or guardians may teach only their own children in the home study program, provided the teaching parent or guardian possesses at least a high school diploma or a general educational development diploma, but the parents or guardians may employ a tutor who holds a high school diploma or a general educational development diploma to teach such children;

(4) The home study program shall provide a basic academic educational program which includes, but is not limited to, reading, language arts, mathematics, social studies, and science;

(5) The home study program must provide instruction each 12 months to home study students equivalent to 180 school days of education with each school day consisting of at least four and one-half school hours unless the child is physically unable to comply with the rule provided for in this paragraph;

(6) The parent or guardian shall have the authority to execute any document required by law, rule, regulation, or policy to evidence the enrollment of a child in a home study program, the student's full-time or part-time status, the student's grades, or any other required educational information. This shall include, but not be limited to, documents for purposes of verification of enrollment by the Department of Driver Services, for the purposes set forth in subsection (a.1) of Code Section 40-5-22, documents required pursuant to Chapter 2 of Title 39 relating to employment of minors, and any documents required to apply for the receipt of state or federal public assistance;

(7) Students in home study programs shall be subject to an appropriate nationally standardized testing program administered in consultation with a person trained in the administration and interpretation of norm reference tests to evaluate their educational progress at least every three years beginning at the end of the third grade and records of such tests and scores shall be retained but shall not be required to be submitted to public educational authorities; and

(8) The home study program instructor shall write an annual progress assessment report which shall include the instructor's individualized assessment of the student's academic progress in each of the subject areas specified in paragraph (4) of this subsection, and such progress reports shall be retained by the parent, parents, or guardian of children in the home study program for a period of at least three years.

(d) Any person who operates a private school without complying with the requirements of subsection (b) of this Code section or any person who operates a home study program without complying with the requirements of subsection (c) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00.

(e) The State Board of Education shall devise, adopt, and make available to local school superintendents, who shall in turn make available to administrators of private schools and parents or guardians with children in home study programs, such printed forms and procedures as may be reasonably necessary to carry out efficiently the reporting provisions of this Code section, but such printed forms and procedures shall not be inconsistent with or exceed the requirements of this Code section. (Code 1981, § 20-2-690, enacted by Ga. L. 1984, p. 1266, § 1; Ga. L. 1985, p. 149, § 20; Ga. L. 1986, p. 10, § 20; Ga. L. 1997, p. 760, § 4; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 945, § 1; Ga. L. 2012, p. 358, § 30/HB 706; Ga. L. 2012, p. 648, § 1/HB 39; Ga. L. 2013, p. 141 § 20/HB 79; Ga. L. 2013, p. 1061, § 23/HB 283; Ga. L. 2015, p. 60, § 3-2/SB 100; Ga. L. 2015, p. 1376, § 35/HB 502.)

The 2013 amendments. — The first 2013 amendment, effective April 24, 2013, part of an Act to revise, modernize, and correct the Code, substituted "Department of Driver Services" for "Department of Public Safety" in the last sentence of paragraph (b)(5) and in paragraphs (c)(2) and (c)(6). The second 2013 amendment, effective July 1, 2013, substituted "which shall provide for written or electronic" for "which may provide for electronic" in paragraph (c)(1); in paragraph (c)(2), in the second sentence, inserted "or" preced-

ing "pursuant", and deleted ", or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22" at the end; and substituted the present provisions of paragraph (c)(6) for the former provisions, which read: "Attendance records for the home study program shall be kept and shall be submitted annually to the Department of Education and additionally, in accordance with department regulations for purposes of verification of attendance by the Department

of Public Safety, for the purposes set forth in subsection (a.1) of Code Section 40-5-22. The department may provide for electronic submittal of such records. Attendance records and reports shall not be used for any purpose except providing necessary attendance information, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent jurisdiction, or for verification of attendance by the Department of Public Safety for the purposes set forth in subsection (a.1) of Code Section 40-5-22". See the editor's note regarding the effect of these amendments.

The 2015 amendments. — The first 2015 amendment, effective July 1, 2015, substituted "enrollment" for "attendance" in the last sentence of paragraph (b)(5) and in the last sentence of paragraph (c)(6). See editor's note for applicability. The second 2015 amendment, effective July 1, 2015, inserted "the local school

system in which the home study program is located," in the first sentence of paragraph (c)(2).

Editor's notes. — Ga. L. 2013, p. 141, § 54(f)/HB 79, not codified by the General Assembly, provides: "In the event of a conflict between a provision in Sections 1 through 53 of this Act and a provision of another Act enacted at the 2013 regular session of the General Assembly, the provision of such other Act shall control over the conflicting provisions in Sections 1 through 53 of this Act to the extent of the conflict." Accordingly, the amendment to paragraph (c)(2) of this Code section by Ga. L. 2013, p. 141, § 20(7)/HB 79 was not given effect.

Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides, in part, that this Act shall apply to offenses which occur on or after July 1, 2015.

20-2-690.1. Mandatory education for children between ages six and 16.

JUDICIAL DECISIONS

Constitutionality. — Defendant's challenge to the constitutionality of O.C.G.A. § 20-2-690.1 failed because the statute clearly punished the unjustified failure to send a child to school for whom one was responsible, did not violate equal protection, and was reasonably related to

the legitimate governmental interest of ensuring children were educated, and the delegation of power to the Board of Education was accompanied by sufficient guidelines directing the Board to consider sickness and other emergencies. *Pitts v. State*, 293 Ga. 511, 748 S.E.2d 426 (2013).

20-2-690.2. Establishment of student attendance protocol committee; membership and protocol; summary of penalties for failure to comply; reporting.

(a) The chief judge of the superior court of each county shall establish a student attendance protocol committee for its county. The purpose of the committee shall be to ensure coordination and cooperation among officials, agencies, and programs involved in compulsory attendance issues, to reduce the number of unexcused absences from school, and to increase the percentage of students present to take tests which are required to be administered under the laws of this state. The chief judge is responsible for ensuring that all members of the committee are notified of their responsibility to the committee and shall call the first meeting of the committee in each county. The committee shall elect a chairperson and may elect other officers.

(b) Each local board of education shall participate in, consider, and make publicly available, including but not limited to posting in a conspicuous location, its decision regarding the recommendations of the committee as provided in this Code section. Independent school systems may participate in the committee in the county where the system is located. Independent school systems whose geographic area encompasses more than one county may select one of such counties in which to participate. An independent school system that elects not to participate in the committee of the county where it is located shall request that the chief judge of the superior court of a county encompassed by its geographic area to establish an independent student attendance protocol committee in the same manner as established for the county school system.

(c) Each of the following agencies, officials, or programs shall designate a representative to serve on the committee:

- (1) The chief judge of the superior court;
- (2) The juvenile court judge or judges of the county;
- (3) The district attorney for the county;
- (4) The solicitor-general of state court, if the county has a state court;
- (5) The Department of Juvenile Justice, which may include representatives from area juvenile detention facilities as defined in Code Section 49-4A-1;
- (6) The superintendent, a certificated school employee, and a local school board member from each public school system in the county and a certificated school social worker from each public school system, if any are employed by the school system;
- (7) The sheriff of the county;
- (8) The chief of police of the county police department;
- (9) The chief of police of each municipal police department in the county;
- (10) The county department of family and children services;
- (11) The county board of health;
- (12) The county mental health organization;
- (13) The county Family Connection commission, board, or authority, or other county agency, board, authority, or commission having the duty and authority to study problems of families, children, and youth and provide services to families, children, and youth; and

(14) The court approved community based risk reduction program established by the juvenile court in accordance with Code Section 15-11-38, if such a program has been established.

(d) The committee thus established may appoint such additional members as necessary and proper to accomplish the purposes of the committee.

(e) Each committee shall, by June 1, 2005, adopt a written student attendance protocol for its county school system and for each independent school system within its geographic boundaries which shall be filed with the Department of Education. The protocol shall outline in detail the procedures to be used in identifying, reporting, investigating, and prosecuting cases of alleged violations of Code Section 20-2-690.1, relating to mandatory school attendance. The protocol shall outline in detail methods for determining the causes of failing to comply with compulsory attendance and appropriately addressing the issue with children and their parents or guardians. The protocol shall also include recommendations for policies relating to tardiness. The Department of Education shall provide model school attendance protocols, if requested by the committee.

(f) A copy of the protocol shall be furnished to each agency, official, or program within the county that has any responsibility in assisting children and their parents or guardians in complying with Code Section 20-2-690.1.

(g) The committee shall write the summary of possible consequences and penalties for failing to comply with compulsory attendance under Code Section 20-2-690.1 for children and their parents, guardians, or other persons who have control or charge of children for distribution by schools in accordance with Code Section 20-2-690.1. The summary of possible consequences for children shall include possible dispositions for children in need of services and possible denial of a driver's license for a child in accordance with Code Section 40-5-22.

(h) The committee shall continue in existence after writing the student attendance protocol. The chief judge of the superior court of each county shall ensure that the committee meets at least quarterly during the first year, and twice annually thereafter, to evaluate compliance with the protocol, effectiveness of the protocol, and appropriate modifications.

(i) Each local board of education shall report student attendance rates to the committee and the State Board of Education at the end of each school year, according to a schedule established by the State Board of Education. (Code 1981, § 20-2-690.2, enacted by Ga. L. 2004, p. 107, § 11; Ga. L. 2013, p. 294, § 4-35/HB 242; Ga. L. 2015, p. 60, § 3-3/SB 100.)

The 2013 amendment, effective January 1, 2014, substituted “juvenile detention facilities as defined in Code Section 49-4A-1” for “youth detention centers or regional youth detention centers” in paragraph (c)(5); substituted “Code Section 15-11-38” for “Code Section 15-11-10” in paragraph (c)(14); and substituted “children in need of services” for “unruly children” in the last sentence of subsection (g). See editor’s note for applicability.

The 2015 amendment, effective July 1, 2015, in subsection (g), deleted “or suspension” following “possible denial” near the end of the last sentence. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and

shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides, in part, that this Act shall apply to offenses which occur on or after July 1, 2015.

20-2-693. Exemptions.

JUDICIAL DECISIONS

Cited in *Pitts v. State*, 293 Ga. 511, 748 S.E.2d 426 (2013).

20-2-697. Cooperation of principals and teachers in public schools with visiting teachers and attendance officers; attendance reports and records kept by public schools; letter indicating enrollment.

(a) Visiting teachers and attendance officers shall receive the cooperation and assistance of all teachers and principals of public schools in the local school systems within which they are appointed to serve. It shall be the duty of the principals or local school site administrators and of the teachers of all public schools to report, in writing, to the visiting teacher or attendance officer of the local school system the names, ages, and residences of all students in attendance at their schools and classes within 30 days after the beginning of the school term or terms and to make such other reports of attendance in their schools or classes as may be required by rule or regulation of the State Board of Education. All public schools shall keep daily records of attendance, verified by the teachers certifying such records. Such reports shall be open to inspection by the visiting teacher, attendance officer, or duly authorized representative at any time during the school day. Any such attendance records and reports which identify students by name shall be used only for the purpose of providing necessary attendance information required by the state board or by law, except with the permission of the parent or guardian of a child, pursuant to the subpoena of a court of competent

jurisdiction, or for verification of enrollment by the Department of Driver Services for the purposes set forth in subsection (a.1) of Code Section 40-5-22. Such attendance records shall also be maintained in a format which does not identify students by name, and in this format shall be a part of the data collected for the student record component of the state-wide comprehensive educational information system pursuant to subsection (b) of Code Section 20-2-320.

(a.1) Any student shall have the right to request and receive, within three business days from the date of such request, a letter from his or her school administrator indicating that the student is enrolled full-time and has an attendance record in good standing for the current academic year.

(b) Any person failing to carry out the duties required by subsection (a) of this Code section shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$100.00.

(c) The provisions of this Code section shall not apply to private schools or home study programs, and enrollment and attendance information required for private schools or home study programs and penalties for failure to comply with such requirements shall be as provided in Code Section 20-2-690. (Ga. L. 1945, p. 343, § 9; Ga. L. 1969, p. 838, § 4; Ga. L. 1981, p. 829, § 1; Ga. L. 1984, p. 1266, § 5; Ga. L. 1989, p. 808, § 3; Ga. L. 1997, p. 760, § 5; Ga. L. 2000, p. 618, §§ 63, 94; Ga. L. 2004, p. 107, § 11A; Ga. L. 2015, p. 60, § 3-4/SB 100.)

The 2015 amendment, effective July 1, 2015, in subsection (a), substituted “verification of enrollment by the Department of Driver Services” for “verification of attendance by the Department of Public Safety” near the end of the fifth sentence. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides, in part, that this Act shall apply to offenses which occur on or after July 1, 2015.

20-2-699. Disposition of children taken into custody.

Any person assuming temporary custody of a child pursuant to Code Section 20-2-698 shall immediately deliver the child either to the parent, guardian, or other person having control or charge of the child or to the school from which the child is absent, or if the child is found to have been adjudged a delinquent child or a child in need of services, the person shall cause the child to be brought before the juvenile probation officer or community supervision officer of the county having jurisdiction over such child. (Ga. L. 1976, p. 768, § 1; Ga. L. 1994, p. 97, § 20; Ga. L. 2013, p. 294, § 4-36/HB 242; Ga. L. 2015, p. 422, § 5-51/HB 310.)

The 2013 amendment, effective January 1, 2014, substituted “delinquent child or a child in need of services, the person shall” for “delinquent or unruly, he shall” near the middle. See editor’s note for applicability.

The 2015 amendment, effective July 1, 2015, substituted “before the juvenile probation officer or community supervision officer of the county” for “before the probation officer of the county” near the end of this Code section. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and

juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

Ga. L. 2015, p. 422, § 6-1/HB 310, not codified by the General Assembly, provides, in part, that this Act shall apply to sentences entered on or after July 1, 2015.

20-2-701. Responsibility for reporting truants to juvenile or other courts.

Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs. (Ga. L. 1945, p. 343, § 11; Ga. L. 1984, p. 1266, § 7; Ga. L. 2004, p. 107, § 11B; Ga. L. 2005, p. 334, § 9-2/HB 501; Ga. L. 2012, p. 358, § 33/HB 706; Ga. L. 2012, p. 648, § 5/HB 39; Ga. L. 2015, p. 60, § 3-5/SB 100.)

The 2015 amendment, effective July 1, 2015, substituted the present provisions of this Code section for the former provisions, which read: “(a) Local school superintendents as applied to private schools, the Department of Education as applied to home study programs, or visiting teachers and attendance officers as applied to public schools, after written notice to the parent or guardian of a child, shall report to the juvenile or other court having jurisdiction under Chapter 11 of Title 15 any child who is absent from a public or private school or a home study

program in violation of this subpart. If the judge of the court places such child in a home or in a public or private institution pursuant to Chapter 11 of Title 15, school shall be provided for such child. The Department of Education shall coordinate with local school superintendents with respect to attendance records and notification for students in home study programs.

“(b) Local school superintendents or visiting teachers and attendance officers shall use their best efforts to notify any child 14 years of age or older who has only

three absences remaining prior to violating the attendance requirements contained in subsection (a.1) of Code Section 40-5-22. Such notification shall be made via first-class mail.

“(c) Local school superintendents or visiting teachers and attendance officers shall report to the State Board of Education, which shall, in turn, report to the Department of Driver Services any child 14 years of age or older who does not meet the attendance requirements contained in subsection (a.1) of Code Section 40-5-22.

Such report shall include the child’s name, current address, and social security number, if known.

“(d) Subsections (b) and (c) of this Code section shall not be effective until full implementation of the state-wide education information system.” See editor’s note for applicability.

Editor’s notes. — Ga. L. 2015, p. 60, § 6-1/SB 100, not codified by the General Assembly, provides, in part, that this Act shall apply to offenses which occur on or after July 1, 2015.

PART 2

DISCIPLINE

Subpart 1A

Improved Student Learning Environment and Discipline

20-2-741. Positive behavioral interventions and supports and response to intervention.

(a) As used in this Code section, the term:

(1) “High needs school” means a public school which has received a school climate rating of “1-star” or “2-star” pursuant to Code Section 20-14-33.

(2) “Positive behavioral interventions and supports” or “PBIS” means an evidence based data-driven framework to reduce disciplinary incidents, increase a school’s sense of safety, and support improved academic outcomes through a multitiered approach, using disciplinary data and principles of behavior analysis to develop school-wide, targeted, and individualized interventions and supports.

(3) “Response to intervention” or “RTI” means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(b) Local boards of education are encouraged to implement PBIS and RTI programs and initiatives in their schools, and particularly in high needs schools.

(c) The State Board of Education is authorized, subject to appropriations by the General Assembly, to provide funds to local school systems to support PBIS and RTI programs, initiatives, and personnel.

(d) The State Board of Education is authorized to establish rules and regulations for PBIS and RTI programs and initiatives which receive

funding pursuant to this Code section. (Code 1981, § 20-2-741, enacted by Ga. L. 2015, p. 1070, § 1/SB 164.)

Effective date. — This Code section became effective July 1, 2015.

Editor's notes. — This Code section formerly pertained to the requirement of local boards of education to send copies of policies to the Department of Education

and the effect on Individualized Education Programs. The former Code section was based on Ga. L. 1999, p. 438, § 4 and was repealed by Ga. L. 2012, p. 358, § 34/HB 706, effective July 1, 2012.

Subpart 2

Public School Disciplinary Tribunals

20-2-751. Definitions.

As used in this subpart, the term:

(1) “Dangerous weapon” shall have the same meaning as set forth in Code Section 16-11-121.

(2) “Expulsion” means expulsion of a student from a public school beyond the current school quarter or semester.

(3) “Firearm” shall have the same meaning as set forth in Code Section 16-11-127.1.

(4) “Hazardous object” means any dirk, bowie knife, switchblade knife, ballistic knife, any other knife having a blade of two or more inches, straight-edge razor, razor blade, spring stick, knuckles, whether made from metal, thermoplastic, wood, or other similar material, blackjack, any bat, club, or other bludgeon-type weapon, or any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain, or any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, or any instrument of like kind, any nonlethal air gun, and any stun gun or taser as defined in subsection (a) of Code Section 16-11-106. Such term shall not include any of these instruments used for classroom work authorized by the teacher.

(5) “Long-term suspension” means the suspension of a student from a public school for more than ten school days but not beyond the current school quarter or semester.

(6) “Short-term suspension” means the suspension of a student from a public school for not more than ten school days. (Ga. L. 1979, p. 663, § 2; Ga. L. 1995, p. 1072, § 3; Ga. L. 2014, p. 432, § 1-3/HB 826.)

The 2014 amendment, effective July 1, 2014, added paragraph (1); redesignated former paragraph (1) as present paragraph (2); added paragraphs (3) and (4); redesignated former paragraphs (2)

and (3) as present paragraphs (5) and (6), respectively; and deleted former paragraph (4), which read: “‘Weapon’ means a firearm as such term is defined in Section 921 of Title 18 of the United States Code.”

20-2-751.1. Expulsion and disciplinary policy for students bringing weapons to school.

(a) Each local board of education shall establish a policy, pursuant to this subpart, regarding a student’s possession of a firearm, dangerous weapon, or hazardous object at school. With respect to a student who is determined to have possessed a firearm or dangerous weapon at school, such policy shall require expulsion from school for a period of not less than one calendar year; provided, however, that a hearing officer, tribunal, panel, administrator, superintendent, or local board of education shall have the authority to modify such expulsion requirement on a case-by-case basis.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student determined to have brought a firearm, dangerous weapon, or hazardous object to school in an alternative educational setting.

(c) Nothing in this Code section shall infringe on any right provided to students with Individualized Education Programs pursuant to the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act of 1973, or the federal Americans with Disabilities Act. (Code 1981, § 20-2-751.1, enacted by Ga. L. 1995, p. 1072, § 4; Ga. L. 2014, p. 432, § 1-4/HB 826.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of subsection (a) for the former provisions, which read: “Each local board of education shall establish a policy requiring the expulsion from school for a period of not less than one calendar year of any student who is determined, pursuant to this subpart, to have brought a weapon to school.”; deleted former subsection (b),

which read: “The local board of education shall have the authority to modify such expulsion requirement as provided in subsection (a) of this Code section on a case-by-case basis.”; redesignated former subsections (c) and (d) as present subsections (b) and (c), respectively; and, in present subsection (b), near the end, inserted “firearm, dangerous” and inserted “, or hazardous object”.

20-2-751.2. Students subject to disciplinary orders of other school systems.

(a) As used in this Code section, the term “disciplinary order” means any order of a local school system in this state, a private school in this state, or a public school outside of this state which imposes short-term suspension, long-term suspension, or expulsion upon a student in such system or school.

(b) A local board of education which has a student who attempts to enroll or who is enrolled in any school in its school system during the time in which that student is subject to a disciplinary order is authorized to refuse to enroll or subject that student to short-term suspension, long-term suspension, or expulsion for any time remaining in that other school system's or school's disciplinary order upon receiving a certified copy of such order if the offense which led to such suspension or expulsion in the other school system or school was an offense for which suspension or expulsion could be imposed in the enrolling school.

(c) A local school system or school may request of another school system or school whether any disciplinary order has been imposed by the other school system or school upon a student who is seeking to enroll or is enrolled in the requesting system or school. If such an order has been imposed and is still in effect for such student, the requested school system or private school in this state shall so inform the requesting system or school and shall provide a certified copy of the order to the requesting system or school.

(d) If any school administrator determines from the information obtained pursuant to this Code section or from Code Section 15-11-599, 15-11-602, or 15-11-707 that a student has been convicted of or has been adjudicated to have committed an offense which is a class A designated felony act or class B designated felony act under Code Section 15-11-2, such administrator shall so inform all teachers to whom the student is assigned and other school personnel to whom the student is assigned. Such teachers and other certificated professional personnel as the administrator deems appropriate may review the information in the student's file provided pursuant to this Code section that has been received from other schools or from the juvenile courts or superior courts. Such information shall be kept confidential. (Code 1981, § 20-2-751.2, enacted by Ga. L. 1995, p. 1340, § 4; Ga. L. 1996, p. 6, § 20; Ga. L. 1997, p. 1436, § 4; Ga. L. 2000, p. 20, § 17; Ga. L. 2004, p. 107, § 13; Ga. L. 2013, p. 294, § 4-37/HB 242.)

The 2013 amendment, effective January 1, 2014, in subsection (d), in the first sentence, substituted "Code Section 15-11-599, 15-11-602, or 15-11-707" for "Code Section 15-11-28 or 15-11-80" near the beginning and, near the middle, inserted "class A" and inserted "or class B designated felony act", and substituted "Code Section 15-11-2" for "Code Section 15-11-63". See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General

Assembly, provides that: "This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any

prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

20-2-751.4. Policies prohibiting bullying; assignment to alternative school; notice.

(a) As used in this Code section, the term “bullying” means an act that is:

(1) Any willful attempt or threat to inflict injury on another person, when accompanied by an apparent present ability to do so;

(2) Any intentional display of force such as would give the victim reason to fear or expect immediate bodily harm; or

(3) Any intentional written, verbal, or physical act which a reasonable person would perceive as being intended to threaten, harass, or intimidate, that:

(A) Causes another person substantial physical harm within the meaning of Code Section 16-5-23.1 or visible bodily harm as such term is defined in Code Section 16-5-23.1;

(B) Has the effect of substantially interfering with a student’s education;

(C) Is so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or

(D) Has the effect of substantially disrupting the orderly operation of the school.

The term applies to acts which occur on school property, on school vehicles, at designated school bus stops, or at school related functions or activities or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system. The term also applies to acts of cyberbullying which occur through the use of electronic communication, whether or not such electronic act originated on school property or with school equipment, if the electronic communication (1) is directed specifically at students or school personnel, (2) is maliciously intended for the purpose of threatening the safety of those specified or substantially disrupting the orderly operation of the school, and (3) creates a reasonable fear of harm to the students’ or school personnel’s person or property or has a high likelihood of succeeding in that purpose. For purposes of this Code Section, electronic communication includes but is not limited to any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo electronic or photo optical system.

(b) No later than August 1, 2011:

(1) Each local board of education shall adopt a policy that prohibits bullying of a student by another student and shall require such prohibition to be included in the student code of conduct for schools in that school system;

(2) Each local board policy shall require that, upon a finding by the disciplinary hearing officer, panel, or tribunal of school officials provided for in this subpart that a student in grades six through 12 has committed the offense of bullying for the third time in a school year, such student shall be assigned to an alternative school;

(3) Each local board of education shall establish and publish in its local board policy a method to notify the parent, guardian, or other person who has control or charge of a student upon a finding by a school administrator that such student has committed an offense of bullying or is a victim of bullying; and

(4) Each local board of education shall ensure that students and parents of students are notified of the prohibition against bullying, and the penalties for violating the prohibition, by posting such information at each school and by including such information in student and parent handbooks.

(c) No later than January 1, 2011, the Department of Education shall develop a model policy regarding bullying, that may be revised from time to time, and shall post such policy on its website in order to assist local school systems. Such model policy shall include:

(1) A statement prohibiting bullying;

(2) A requirement that any teacher or other school employee who has reliable information that would lead a reasonable person to suspect that someone is a target of bullying shall immediately report it to the school principal;

(3) A requirement that each school have a procedure for the school administration to promptly investigate in a timely manner and determine whether bullying has occurred;

(4) An age-appropriate range of consequences for bullying which shall include, at minimum and without limitation, disciplinary action or counseling as appropriate under the circumstances;

(5) A procedure for a teacher or other school employee, student, parent, guardian, or other person who has control or charge of a student, either anonymously or in such person's name, at such person's option, to report or otherwise provide information on bullying activity;

(6) A statement prohibiting retaliation following a report of bullying; and

(7) Provisions consistent with the requirements of subsection (b) of this Code section.

(d) The Department of Education shall develop and post on its website a list of entities and their contact information which produce antibullying training programs and materials deemed appropriate by the department for use in local school systems.

(e) Any person who reports an incident of bullying in good faith shall be immune from civil liability for any damages caused by such reporting.

(f) Nothing in this Code section or in the model policy promulgated by the Department of Education shall be construed to require a local board of education to provide transportation to a student transferred to another school as a result of a bullying incident.

(g) Any school system which is not in compliance with the requirements of subsection (b) of this Code section shall be ineligible to receive state funding pursuant to Code Sections 20-2-161 and 20-2-260. (Code 1981, § 20-2-751.4, enacted by Ga. L. 1999, p. 362, § 3; Ga. L. 2000, p. 136, § 20; Ga. L. 2010, p. 516, § 2/SB 250; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2015, p. 1215, § 2/HB 131.)

The 2015 amendment, effective May 6, 2015, in subsection (a), substituted the present provisions of the introductory paragraph for the former provisions, which read: “As used in this Code section, the term ‘bullying’ means an act which occurs on school property, on school vehicles, at designated school bus stops, or at school related functions or activities, or by use of data or software that is accessed through a computer, computer system, computer network, or other electronic technology of a local school system, that is:”, and added the ending undesignated paragraph. See the Editor’s note for applicability.

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2015, subpara-

graph (a)(3)(c), as enacted by Ga. L. 2015, p. 1215, § 2/HB 131, was redesignated as subparagraph (a)(3)(C).

Editor’s notes. — Ga. L. 2015, p. 1215, § 1/HB 131, not codified by the General Assembly, provides that: “This Act shall be known and may be cited as ‘The End to Cyberbullying Act.’”

Ga. L. 2015, p. 1215, § 1/HB 131, not codified by the General Assembly, provides, in part, that this Act shall apply to conduct on or after May 6, 2015, and conduct prior to that date shall continue to be governed by prior law.

Law reviews. — For comment, “Pacifism in a Dog-Eat-Dog World: Potential Solutions to School Bullying,” see 64 Mercer L. Rev. 753 (2013).

20-2-751.5. Student codes of conduct; safety rules on school buses; distribution.

(a) Each student code of conduct shall contain provisions that address the following conduct of students during school hours, at school

related functions, and on the school bus in a manner that is appropriate to the age of the student:

(1) Verbal assault, including threatened violence, of teachers, administrators, and other school personnel;

(2) Physical assault or battery of teachers, administrators, and other school personnel;

(3) Disrespectful conduct toward teachers, administrators, and other school personnel, including use of vulgar or profane language;

(4) Verbal assault of other students, including threatened violence or sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(5) Physical assault or battery of other students, including sexual harassment as defined pursuant to Title IX of the Education Amendments of 1972;

(6) Disrespectful conduct toward other students, including use of vulgar or profane language;

(7) Verbal assault of, physical assault or battery of, and disrespectful conduct, including use of vulgar or profane language, toward persons attending school related functions;

(8) Failure to comply with compulsory attendance as required under Code Section 20-2-690.1;

(9) Willful or malicious damage to real or personal property of the school or to personal property of any person legitimately at the school;

(10) Inciting, advising, or counseling of others to engage in prohibited acts;

(11) Marking, defacing, or destroying school property;

(12) Possession of a firearm, as provided for in Code Section 16-11-127.1, and possession of a dangerous weapon or hazardous object;

(13) Unlawful use or possession of illegal drugs or alcohol;

(14) Willful and persistent violation of the student code of conduct;

(15) Bullying as defined by Code Section 20-2-751.4;

(16) Marking, defacing, or destroying the property of another student; and

(17) Falsifying, misrepresenting, omitting, or erroneously reporting information regarding instances of alleged inappropriate behavior.

ior by a teacher, administrator, or other school employee toward a student.

With regard to paragraphs (9), (11), and (17) of this subsection, each student code of conduct shall also contain provisions that address conduct of students during off-school hours.

(b)(1) In addition to the requirements contained in subsection (a) of this Code section, each student code of conduct shall include comprehensive and specific provisions prescribing and governing student conduct and safety rules on all public school buses. The specific provisions shall include but not be limited to:

(A) Students shall be prohibited from acts of physical violence as defined by Code Section 20-2-751.6, bullying as defined by subsection (a) of Code Section 20-2-751.4, physical assault or battery of other persons on the school bus, verbal assault of other persons on the school bus, disrespectful conduct toward the school bus driver or other persons on the school bus, and other unruly behavior;

(B) Students shall be prohibited from using any electronic devices during the operation of a school bus, including but not limited to cell phones; pagers; audible radios, tape or compact disc players without headphones; or any other electronic device in a manner that might interfere with the school bus communications equipment or the school bus driver's operation of the school bus; and

(C) Students shall be prohibited from using mirrors, lasers, flash cameras, or any other lights or reflective devices in a manner that might interfere with the school bus driver's operation of the school bus.

(2) If a student is found to have engaged in physical acts of violence as defined by Code Section 20-2-751.6, the student shall be subject to the penalties set forth in such Code section. If a student is found to have engaged in bullying as defined by subsection (a) of Code Section 20-2-751.4 or in physical assault or battery of another person on the school bus, the local school board policy shall require a meeting of the parent or guardian of the student and appropriate school district officials to form a school bus behavior contract for the student. Such contract shall provide for progressive age-appropriate discipline, penalties, and restrictions for student misconduct on the bus. Contract provisions may include but shall not be not limited to assigned seating, ongoing parental involvement, and suspension from riding the bus. This subsection is not to be construed to limit the instances when a school code of conduct or local board of education may require use of a student bus behavior contract.

(c) Each student code of conduct shall also contain provisions that address any off-campus behavior of a student which could result in the

student being criminally charged with a felony and which makes the student's continued presence at school a potential danger to persons or property at the school or which disrupts the educational process.

(d) Local board policies relating to student codes of conduct shall provide that each local school superintendent shall fully support the authority of principals and teachers in the school system to remove a student from the classroom pursuant to Code Section 20-2-738, including establishing and disseminating procedures. It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school.

(e) Any student handbook which is prepared by a local board or school shall include a copy of the student code of conduct for that school or be accompanied by a copy of the student code of conduct for that school as annually distributed pursuant to Code Section 20-2-736. When distributing a student code of conduct, a local school shall include a form for acknowledgment of the student's parent or guardian's receipt of the code, and the local school shall solicit or require that the form be signed and returned to the school. (Code 1981, § 20-2-751.5, enacted by Ga. L. 1999, p. 370, § 1; Ga. L. 2000, p. 136, § 20; Ga. L. 2002, p. 1421, § 1; Ga. L. 2003, p. 140, § 20; Ga. L. 2004, p. 107, § 14; Ga. L. 2006, p. 851, § 7/SB 413; Ga. L. 2008, p. 214, § 1/HB 1321; Ga. L. 2014, p. 432, § 1-5/HB 826.)

The 2014 amendment, effective July 1, 2014, in paragraph (a)(12), substituted "firearm" for "weapon" near the beginning and added ", and possession of a dangerous weapon or hazardous object" at the end.

Law reviews. — For comment, "Pacifism in a Dog-Eat-Dog World: Potential Solutions to School Bullying," see 64 Mercer L. Rev. 753 (2013).

20-2-751.6. Disciplinary policy for students committing acts of physical violence against teacher, school bus driver, or other school official or employee.

JUDICIAL DECISIONS

Criminal action by student against school resource officer. — Because the school officials exercised their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention

center, the disciplinary hearing was not untimely, as there was evidence that the student had not been suspended before the hearing, and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-753. Disciplinary hearing officer, panel, or tribunal to hold disciplinary hearing following allegation of assault and battery or recommended suspension or expulsion exceeding 10 days.

JUDICIAL DECISIONS

Timely hearing provided. — After a student was expelled for violations of the local board of education's code of student conduct, because the determination of the student's misconduct was a contested issue before the local board, the student was allowed to appeal the decision, and the superior court did not err in ruling that the student's appeal to the state board of education was not moot; however, despite the board's initial ruling that the appeal was moot, the state board reviewed the local board's decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Because the school officials exercised

their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-754. Procedures to be followed by disciplinary officer, panel, or tribunal; review.

JUDICIAL DECISIONS

Timely hearing provided. — After a student was expelled for violations of the local board of education's code of student conduct, because the determination of the student's misconduct was a contested issue before the local board, the student was allowed to appeal the decision, and the superior court did not err in ruling that the student's appeal to the state board of education was not moot; however, despite the board's initial ruling that the appeal was moot, the state board reviewed the local board's decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Because the school officials exercised

their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student's release from the youth detention center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education's decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

20-2-756. Reports to law enforcement officials.

JUDICIAL DECISIONS

Exercise of discretion in reporting criminal action by student. — Because the school officials exercised their discretion under the law to report alleged criminal action against a school resource officer by the student, there was no evidence that school officials were involved in the decision to admit the student into the youth detention center, and the student was allowed to return to school upon the student’s release from the youth detention

center, the disciplinary hearing was not untimely as there was evidence that the student had not been suspended before the hearing and, thus, the superior court erred in reversing the state board of education’s decision and remanding the case to the state board with direction to vacate the adjudication of expulsion entered against the student. *Fulton County Bd. of Educ. v. D. R. H.*, 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Subpart 3

Chronic Disciplinary Problem Students

20-2-766.1. Proceeding against parents for failure to cooperate in educational programs; penalty.

The local board of education may, by petition to the juvenile court, proceed against a parent or guardian as provided in this Code section. If the court finds that the parent or guardian has willfully and unreasonably failed to attend a conference requested by a principal pursuant to Code Section 20-2-765 or 20-2-766, the court may order the parent or guardian to attend such a conference, order the parent or guardian to participate in such programs or such treatment as the court deems appropriate to improve the student’s behavior, or both. After notice and opportunity for hearing, the court may impose a fine, not to exceed \$500.00, on a parent or guardian who willfully disobeys an order of the court entered under this Code section. The court may use its contempt and other powers specified in Code Section 15-11-31 to enforce any order entered under this Code section. (Code 1981, § 20-2-766.1, enacted by Ga. L. 2000, p. 618, § 68; Ga. L. 2013, p. 294, § 4-38/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted “Code Section 15-11-31” for “Code Section 15-11-5” in the middle of the last sentence of this Code section. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and

juvenile proceedings commenced on and after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any

prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

Subpart 4

Alternative Educational Systems

20-2-768. Expulsion or suspension of students for felonies; alternative educational system; policy.

(a) Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended or expelled for being convicted of, being adjudicated to have committed, being indicted for, or having information filed for the commission of any felony or any delinquent act under Code Sections 15-11-602 and 15-11-707 which would be a felony if committed by an adult. If refused readmission or enrollment, the student or the student’s parent or legal guardian has the right to request a hearing pursuant to the procedures provided for in Code Section 20-2-754.

(b) A hearing officer, tribunal, panel, superintendent, or local board of education shall be authorized to place a student denied enrollment in a local school system under subsection (a) of this Code section in an alternative educational system as appropriate and in the best interest of the student and the education of other students within the school system.

(c) It is the policy of this state that it is preferable to reassign disruptive students to alternative educational settings rather than to suspend or expel such students from school. (Code 1981, § 20-2-768, enacted by Ga. L. 1997, p. 1436, § 9; Ga. L. 2000, p. 20, § 18; Ga. L. 2000, p. 618, § 66; Ga. L. 2013, p. 294, § 4-39/HB 242.)

The 2013 amendment, effective January 1, 2014, substituted “Code Sections 15-11-602 and 15-11-707” for “Code Section 15-11-28” near the end of the first sentence of subsection (a). See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

PART 3

HEALTH

20-2-771. Immunization of students.

(a) As used in this Code section, the term:

(1) “Certificate of immunization” means certification by a physician licensed under the laws of this state or by an appropriate official of a local board of health, on a form provided by the Department of Public Health, that a named person has been immunized in accordance with the applicable rules and regulations of the Department of Public Health.

(2) “Facility” means any public or private child care learning center or nursery intended for the care, supervision, or instruction of children.

(3) “Responsible official” means a county school superintendent, a school principal, or a chief operating officer of a school or facility.

(4) “School” means any public or private educational program or institution instructing children at any level or levels, kindergarten through twelfth grade, or children of ages five through 19 if grade divisions are not used.

(b) No child shall be admitted to or attend any school or facility in this state unless the child shall first have submitted a certificate of immunization to the responsible official of the school or facility. The responsible official of any school or facility may grant a 30 calendar day waiver of the certification requirement for a justified reason. The waiver may be extended from the date of first admittance or of first attendance, whichever is earlier, for up to 90 calendar days provided documentation is on file at the school or facility from the local health department or a physician specifying that an immunization sequence has been started and that this immunization time schedule can be completed within the 90 day waiver period, provided confirmation is received during the waiver period from the health department or physician that immunizations are being received as scheduled, and provided the student under waiver is a transfer student, who is defined as a student who moves from an out-of-state school system to a Georgia school system, or a student entering kindergarten or first grade from out of state. The waiver may not be extended beyond 90 calendar days; and upon expiration of the waiver, the child shall not be admitted to or be permitted to attend the school or facility unless the child submits a certificate of immunization.

(c) The Department of Public Health shall promulgate rules and regulations specifying those diseases against which immunization is

required and the standards for such immunizations. The school or facility shall maintain on file the certificates of immunization for all children attending the school or facility. All facilities shall file a report annually with the Department of Public Health. The report shall be filed on forms prepared by the Department of Public Health and shall state the number of children attending the school or facility, the number of children who did not submit certificates of immunization within the waiver period, and the number of children who are exempted from the certification requirement for medical or religious reasons.

(d) If, after examination by the local board of health or any physician licensed under the laws of this state or of any other state having comparable laws governing the licensure of physicians, any child to whom this Code section applies is found to have any physical disability which may make vaccination undesirable, a certificate to that effect issued by the local board of health or such physician licensed under the laws of this or such other state may be accepted in lieu of a certificate of immunization and shall exempt the child from the requirement of obtaining a certificate of immunization until the disability is relieved.

(e) This Code section shall not apply to a child whose parent or legal guardian objects to immunization of the child on the grounds that the immunization conflicts with the religious beliefs of the parent or guardian; however, the immunization may be required in cases when such disease is in epidemic stages. For a child to be exempt from immunization on religious grounds, the parent or guardian must first furnish the responsible official of the school or facility an affidavit in which the parent or guardian swears or affirms that the immunization required conflicts with the religious beliefs of the parent or guardian.

(f) During an epidemic or a threatened epidemic of any disease preventable by an immunization required by the Department of Public Health, children who have not been immunized may be excluded from the school or facility until (1) they are immunized against the disease, unless they present valid evidence of prior disease, or (2) the epidemic or threat no longer constitutes a significant public health danger.

(g) The requirement of a certificate of immunization shall become effective for all children entering or attending facilities on or after April 7, 1981. The certification requirement shall apply to all children entering or attending schools:

(1) On September 1, 1981, for all such children entering or attending kindergarten or the first, ninth, tenth, eleventh, or twelfth grades, or of the equivalent ages if grade divisions are not used;

(2) On September 1, 1982, for all such children entering or attending all grades, or of all ages if grade divisions are not used.

(h) Any responsible official permitting any child to remain in a school or facility in violation of this Code section, and any parent or guardian

who intentionally does not comply with this Code section, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 or by imprisonment for not more than 12 months. The Department of Public Health may adopt rules and regulations for the enforcement of this Code section. The Department of Public Health and the local board of health, or either of them, may institute a civil action in the superior court of the county in which the defendant resides for injunctive relief to prevent a threatened or continuing violation of any provision of this Code section. (Ga. L. 1880-81, p. 98, § 1; Ga. L. 1919, p. 288, § 87; Code 1933, § 32-911; Ga. L. 1946, p. 206, § 2; Ga. L. 1957, p. 455, § 1; Ga. L. 1964, p. 499, § 6; Ga. L. 1968, p. 1436, § 1; Ga. L. 1972, p. 1069, § 3; Ga. L. 1973, p. 910, §§ 1, 2; Ga. L. 1978, p. 941, § 1; Ga. L. 1979, p. 1284, § 1; Ga. L. 1981, p. 756, § 1; Ga. L. 1987, p. 319, § 1; Ga. L. 2009, p. 453, § 1-4/HB 228; Ga. L. 2011, p. 705, § 6-3/HB 214; Ga. L. 2013, p. 135, § 12/HB 354.)

The 2013 amendment, effective July 1, 2013, substituted “child care learning center” for “day-care center” in paragraph (a)(2).

20-2-771.2. School health nurse programs.

Law reviews. — For annual survey on administrative law, see 64 Mercer L. Rev. 39 (2012).

20-2-776.2. Stock supply of auto-injectable epinephrine; requirements; limited liability.

(a) As used in this Code section, the term:

(1) “Auto-injectable epinephrine” means a disposable drug delivery device that is easily transportable and contains a premeasured single dose of epinephrine used to treat life-threatening allergic reactions.

(2) “Licensed practitioner” means a physician licensed to practice medicine in this state, an advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103.

(b) A public or private school in this state may acquire and stock a supply of auto-injectable epinephrine pursuant to a prescription issued in accordance with Code Section 26-4-116.1. A public or private school may designate an employee or agent trained in the possession and administration of auto-injectable epinephrine to be responsible for the storage, maintenance, and distribution of the auto-injectable epinephrine stocked by the school.

(c) Any school employee or agent of a public or private school who has completed training or received information in accordance with subsec-

tion (c) of Code Section 20-2-776.1 in recognizing the symptoms of anaphylactic shock and the correct method of administering the auto-injectable epinephrine may:

(1) Provide auto-injectable epinephrine to any student such employee or agent believes in good faith is experiencing an anaphylactic adverse reaction for immediate self-administration; or

(2) Administer auto-injectable epinephrine to any student such employee or agent believes in good faith is experiencing an anaphylactic adverse reaction in accordance with a standing protocol from the prescribing licensed practitioner,

regardless of whether the student has a prescription for auto-injectable epinephrine.

(d) A public or private school may enter into arrangements with manufacturers of approved auto-injectable epinephrine or third-party suppliers of auto-injectable epinephrine to obtain the products free of charge or at fair market or reduced prices.

(e) No later than July 1, 2013, the State Board of Education, in consultation with the Department of Public Health, shall adopt regulations as necessary to implement the provisions of this Code section.

(f)(1) Any school personnel who in good faith administers or chooses not to administer epinephrine to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of epinephrine, except that such immunity shall not apply to an act of willful or wanton misconduct.

(2) Any licensed practitioner who prescribes auto-injectable epinephrine pursuant to Code Section 26-4-116.1 for use by a school in accordance with this Code section shall be immune from civil liability for any act or omission to act related to the administration of such auto-injectable epinephrine, except that such immunity shall not apply to an act of willful or wanton misconduct. (Code 1981, § 20-2-776.2, enacted by Ga. L. 2013, p. 1039, § 1/HB 337.)

Effective date. — This Code section became effective May 7, 2013.

20-2-776.3. Stock supply of levalbuterol sulfate; requirements; limited liability.

(a) As used in this Code section, the term:

(1) “Levalbuterol sulfate” means an orally inhaled medication that contains a premeasured single dose of levalbuterol sulfate or albuterol sulfate delivered by a nebulizer or compressor device or by a pressurized metered dose inhaler used to treat perceived respira-

tory distress including, but not limited to, wheezing, shortness of breath, and difficulty breathing.

(2) “Licensed practitioner” means a physician licensed to practice medicine in this state, an advanced practice registered nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103.

(b) A public or private school in this state may acquire and stock a supply of levalbuterol sulfate pursuant to a prescription issued in accordance with Code Section 26-4-116.3. A public or private school may designate an employee or agent trained in the possession and administration of levalbuterol sulfate to be responsible for the storage, maintenance, and distribution of the levalbuterol sulfate stocked by the school.

(c) Any school employee or agent of a public or private school who has completed training or received information pursuant to subsection (c) of Code Section 20-2-776.4 in recognizing the symptoms of respiratory distress and the correct method of administering the levalbuterol sulfate may:

(1) Provide levalbuterol sulfate to any student such employee or agent believes in good faith is experiencing a perceived respiratory distress for immediate self-administration; or

(2) Administer levalbuterol sulfate to any student such employee or agent believes in good faith is experiencing a perceived respiratory distress, regardless of whether the student has a prescription for levalbuterol sulfate.

(d) A public or private school may enter into arrangements with manufacturers of approved levalbuterol sulfate or third-party suppliers of levalbuterol sulfate to obtain the products free of charge or at fair market or reduced prices.

(e) No later than July 1, 2015, the State Board of Education, in consultation with the Department of Public Health, shall adopt regulations as necessary to implement the provisions of this Code section.

(f)(1) Any school personnel who in good faith administers or chooses not to administer levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct.

(2) Any licensed practitioner who prescribes levalbuterol sulfate pursuant to Code Section 26-4-116.3 for use by a school in accordance

with this Code section shall be immune from civil liability for any act or omission to act related to the administration of such levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct. (Code 1981, § 20-2-776.3, enacted by Ga. L. 2015, p. 312, § 2A/SB 126.)

Effective date. — This Code section became effective July 1, 2015.

20-2-776.4. Administration of levalbuterol sulfate by school personnel.

(a) As used in this Code section, the term “levalbuterol sulfate” means an orally inhaled medication that contains a premeasured single dose of levalbuterol sulfate or albuterol sulfate delivered by a nebulizer or compressor device or by a pressurized metered dose inhaler used to treat perceived respiratory distress including, but not limited to, wheezing, shortness of breath, and difficulty breathing.

(b) Each local board of education shall adopt a policy authorizing school personnel to administer levalbuterol sulfate, if available, to a student upon the occurrence of perceived respiratory distress by the student, whether or not such student has a prescription for levalbuterol sulfate.

(c) Each local board of education shall provide information to school personnel on how to recognize the symptoms of respiratory distress and the correct method of administering the levalbuterol sulfate.

(d) Any school personnel who in good faith administers or chooses not to administer levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil liability for any act or omission to act related to the administration of levalbuterol sulfate, except that such immunity shall not apply to an act of willful or wanton misconduct. (Code 1981, § 20-2-776.4, enacted by Ga. L. 2015, p. 312, § 2A/SB 126.)

Effective date. — This Code section became effective July 1, 2015.

20-2-779. Care of students with diabetes; definitions; training of school employees; diabetes medical management plan; no liability for staff; application to private schools.

Law reviews. — For annual survey on administrative law, see 64 Mercer L. Rev. 39 (2012).

20-2-779.1. Suicide prevention and awareness training; no duty of care imposed.

(a)(1) The Department of Education shall adopt rules to require that all certificated public school personnel receive annual training in suicide awareness and prevention. This training shall be provided within the framework of existing in service training programs offered by the Department of Education or as part of required professional development offered by a local school system.

(2) The Department of Education shall, in consultation with the Department of Behavioral Health and Developmental Disabilities, the Suicide Prevention Program established pursuant to Code Section 37-1-27, and suicide prevention experts, develop a list of approved training materials to fulfill the requirements of this subsection which may include training materials currently being used by a local school system if such training materials meet any criteria established by the department.

(3) Approved materials shall include training on how to identify appropriate mental health services, both within the school and also within the larger community, and when and how to refer youth and their families to those services.

(4) Approved materials may include programs that can be completed through self-review of suitable suicide prevention materials.

(5)(A) Each local school system shall adopt a policy on student suicide prevention. Such policies shall be developed in consultation with school and community stakeholders, school employed mental health professionals, and suicide prevention experts, and shall, at a minimum, address procedures relating to suicide prevention, intervention, and postvention.

(B) To assist local school systems in developing their own policies for student suicide prevention, the Department of Education, in consultation with the Suicide Prevention Program within the Department of Behavioral Health and Developmental Disabilities, shall establish a model policy for use by local school systems in accordance with this Code section.

(b) No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of this Code section or resulting from any training, or lack thereof, required by this Code section.

(c) The training, or lack thereof, required by the provisions of this Code section shall not be construed to impose any specific duty of care. (Code 1981, § 20-2-779.1, enacted by Ga. L. 2015, p. 618, § 3/HB 198.)

Effective date. — This Code section became effective July 1, 2015.

Editor's notes. — Ga. L. 2015, p. 618, § 1/HB 198, not codified by the General Assembly, provides that: "This Act shall be known and may be referred to as the 'Jason Flatt Act-Georgia.'"

Ga. L. 2015, p. 618, § 2/HB 198, not codified by the General Assembly, provides that: "The General Assembly finds that:

"(1) Suicide cuts across ethnic, economic, social, and age boundaries and has a tremendous and traumatic impact on

surviving family members, friends, and the community at large;

"(2) After unintentional injury, suicide has become the leading cause of death among young people between the ages of ten and 24. At a time when unintentional injuries have been on the decline, suicides have increased; and

"(3) Suicide is a complex issue that requires school, family, and community resources be harnessed for appropriate and timely help to be available in order to prevent suicide."

ARTICLE 17

TEACHERS AND OTHER SCHOOL PERSONNEL

PART 4

SICK, PERSONAL, AND MATERNITY LEAVE

20-2-853. Accumulation of and payment for additional days of unused sick leave.

(a) Personnel who have accumulated 45 days of unused sick leave may accumulate additional days of unused sick leave during each school year for the purpose of receiving the payments provided for in subsection (b) of this Code section.

(b) Beginning with the 1988-89 school year and continuing each school year thereafter, personnel who have accumulated 45 days of unused sick leave and who then accumulate additional days of unused sick leave during a school year as authorized by Code Section 20-2-850 and who:

(1) Have used no sick leave in that school year shall receive the state contribution for all those additional days of unused sick leave; or

(2) Have used only one day of those additional days of sick leave in that school year

shall receive \$50.00 for all those additional days of unused sick leave. The payment for such additional unused sick leave which is accumulated during a school year shall be paid to such personnel at the end of that school year. (Code 1981, § 20-2-853, enacted by Ga. L. 1988, p. 1496, § 3; Ga. L. 1989, p. 14, § 20; Ga. L. 1990, p. 8, § 20.)

PART 6

HEALTH INSURANCE PLANS

Subpart 2

Plan for Public School Teachers

20-2-880. Definitions.

As used in this subpart, the term or terms:

(1) “Board” means the Board of Community Health established under Chapter 2 of Title 31.

(2) “Commissioner” means the commissioner of community health established under Chapter 2 of Title 31.

(3) “Local employer” means the county or independent board of education, a charter school, regional and county libraries, and the governing authority of Georgia Military College.

(4) “Public school teacher,” “teacher,” and “employee” mean any person employed not less than half time in a professionally certificated capacity or position in the public school systems of this state. “Public school teacher,” “teacher,” and “employee” also mean librarians and other personnel employed not less than 30 hours per week by regional and county libraries. “Public school teacher,” “teacher,” and “employee” also mean personnel employed by the high school program of Georgia Military College. “Public school teacher,” “teacher,” and “employee” also mean any professionally certificated person who has acquired ten years or more of creditable service and who is being paid retirement benefits by the Teachers Retirement System of Georgia, Chapter 3 of Title 47, or by any other public school teacher retirement system in this state. “Public school teacher,” “teacher,” and “employee” also mean any person employed not less than half time and compensated in a professionally certificated capacity or position in a charter school in this state established pursuant to Article 31 of Chapter 2 of Title 20 if such charter school elects upon initial approval of its charter or, if such charter school is an existing charter school, elects upon notice by the health insurance plan provided in this part or upon the expiration of its current health care plan or by no later than December 31, 2009, to participate in the health insurance plan established pursuant to this subpart. “Public school teacher,” “teacher,” and “employee” shall not be deemed to include any emergency or temporary employee. Notwithstanding this definition or any other provision of this subpart, the board may, by regulation, make available to employees who work 17 1/2 hours or more per week such benefits as are required to be made available to such employees

by regulations of the United States Internal Revenue Service or any other federal authority.

(5) “Qualified entity” means any person, association, corporation, or other legal entity with which the board is authorized under Article 1 of Chapter 18 of Title 45, relating to state employees’ health insurance, to enter into contract. (Ga. L. 1975, p. 37, § 1; Ga. L. 1977, p. 991, § 1; Ga. L. 1978, p. 2268, §§ 1, 2; Ga. L. 1979, p. 1290, § 1; Ga. L. 1986, p. 291, § 1; Ga. L. 1987, p. 3, § 20; Ga. L. 1989, p. 1143, § 1; Ga. L. 1992, p. 6, § 20; Ga. L. 1999, p. 296, § 26; Ga. L. 2001, p. 4, § 20; Ga. L. 2008, p. 612, § 1/HB 1277; Ga. L. 2009, p. 453, § 1-7/HB 228; Ga. L. 2014, p. 171, § 1/HB 490.)

The 2014 amendment, effective July 1, 2014, in paragraph (4), inserted “not less than 30 hours per week” in the middle of the second sentence and substituted “. ‘Public school teacher,’ ‘teacher,’ and ‘employee’ also mean personnel employed by” for “or” at the beginning of the third sentence.

20-2-892. Contributions by employees, state, and local employers; withholding or deducting employees’ contributions.

(a) During any period in which an employee is covered under the health insurance plan authorized by this subpart prior to the date of his retirement, there shall be withheld from each salary payment of such employee, as his share of the costs of coverage under this plan, such portion of the premium or subscription charges under the terms of any contract or contracts issued in accordance with this subpart as may be established by the board. During any month in which the benefits are being paid by the Teachers Retirement System of Georgia to an individual so covered under this program, contributions shall be deducted from such payments in the amounts prescribed by the board with consent of the recipient.

(b) As the local employer’s share, the local employer shall contribute to the health insurance fund such portion of the cost of such benefits as may be established by the Governor and the board and, in addition thereto, an amount to be established by the board to defray the cost of administration. The board shall determine whether such portion shall be determined based upon a percentage of the total outlay for the salaries of teachers employed by the local employer or determined on an amount per employee electing coverage under the plan based on the coverage elected, in accordance with the appropriation of funds. If a local employer fails to remit the employer’s share as calculated by the commissioner, as provided in this Code section, it shall be the duty of the commissioner to notify the State Board of Education of such failure and it shall be the duty of the State Board of Education to, with reasonable promptness, withhold from the employer which has failed to

comply sufficient state funds as calculated by the commissioner to fully satisfy the outstanding obligation of the local employer to the health insurance fund. Such withheld funds shall be promptly transmitted by the state board to the Department of Community Health. (Ga. L. 1975, p. 37, § 10; Ga. L. 1977, p. 991, § 4; Ga. L. 1979, p. 672, § 2; Ga. L. 1986, p. 291, § 2; Ga. L. 1988, p. 319, § 1; Ga. L. 2005, p. 623, § 2/SB 284; Ga. L. 2015, p. 1376, § 36/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (b), substituted “State Board of Education to, with reasonable promptness, withhold from the employer which has failed to comply sufficient state funds as calculated by the commissioner to fully satisfy the outstanding obligation of the local employer to the health insurance fund” for “State

Board of Education to withhold from the employer which has failed to comply all appropriations allotted to such employer until such employer has fully complied with the provisions of this Code section by making remittance of the sums required” at the end of the third sentence and added the last sentence.

Subpart 3

Plan for Public School Employees

20-2-920. Withholding or deducting employees’ contributions; state contributions; enrollment of employees of school system not participating in the plan.

(a) During any period in which an employee is covered under the health insurance plan authorized by this subpart prior to the date of the employee’s retirement, there shall be withheld from each salary payment of such employee, as the employee’s share of the cost of coverage under this plan, such portion of the premium or subscription charges under the terms of any contract or contracts issued in accordance with this subpart as may be established by the board. During any month in which benefits are being paid by a public school employees’ retirement system to an individual so covered under this program, contributions shall be deducted from such payments in the amounts prescribed by the board with the consent of the recipient.

(b) The Department of Education and local school systems shall contribute to the health insurance fund such portion of the costs of such benefits as may be established by the board to maintain the employee contributions consistent with other health insurance plans administered by the board. In the event that the commissioner shall determine that a local employer has failed to contribute the full amount of such portion, as calculated by the commissioner, it shall be the duty of the commissioner to notify the State Board of Education of such failure and it shall be the duty of the State Board of Education to, with reasonable promptness, withhold from the employer which has failed to comply sufficient state funds as calculated by the commissioner to fully satisfy

the outstanding obligation of the local employer to the health insurance fund. Such withheld funds shall be promptly transmitted by the state board to the Department of Community Health.

(c) If a local school system elects not to participate in the health insurance plan, the board may establish regulations by which the employees of such local school system may enroll as a group, provided an adequate participation percentage is maintained to assure a sound policy of shared risk. (Ga. L. 1975, p. 1194, § 10; Ga. L. 1980, p. 1538, § 3; Ga. L. 1982, p. 896, § 2; Ga. L. 1983, p. 3, § 16; Ga. L. 1984, p. 1692, § 1; Ga. L. 1985, p. 149, § 20; Ga. L. 2005, p. 623, § 5/SB 284; Ga. L. 2015, p. 1376, § 37/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (b), substituted “State Board of Education to, with reasonable promptness, withhold from the employer which has failed to comply sufficient state funds as calculated by the commissioner to fully satisfy the outstanding obligation of the local employer to the health insurance fund” for “State

Board of Education to withhold from the employer which has failed to comply all appropriations allotted to such employer until such employer has fully complied with the provisions of this Code section by making remittance of the sums required” at the end of the second sentence and added the last sentence.

PART 7

TERMINATION, SUSPENSION, NONRENEWAL, DEMOTION, OR REPRIMAND

20-2-940. Grounds and procedure for terminating or suspending contract of employment.

Law reviews. — For comment, “Testing Our Teachers,” 61 Emory L.J. 1493 (2012).

JUDICIAL DECISIONS

ANALYSIS

GENERAL CONSIDERATION
GROUNDS FOR TERMINATION OR SUSPENSION

General Consideration

Review.
Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers’ appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board’s decision to reverse the local board’s nonrenewal decisions because the local

board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). Clayton County Bd. of Educ. v. Wilmer, 325 Ga. App. 637, 753 S.E.2d 459 (2014).
Trial court erred in reversing the State Board of Education’s decision affirming the local board of education’s termination of a teacher’s employment on the basis that the hearing tribunal failed to timely provide the tribunal’s findings of fact and recommendations to the local board be-

cause the teacher failed to raise the issue prior to the appeal to the trial court; thus, the court was prohibited from considering the issue and also prohibited from reviewing the decision of the State Board de novo. Clayton County Bd. of Educ. v. Vollmer, 328 Ga. App. 894, 763 S.E.2d 277 (2014).

Cited in West v. Dooly County Sch. Dist., 316 Ga. App. 330, 729 S.E.2d 469 (2012).

der O.C.G.A. § 20-2-940(a) was upheld based on evidence that the teacher disregarded school policies, failed to monitor the teacher's students' work, was tardy, left the class unattended repeatedly, did not conduct roll calls, and was belligerent and insubordinate to co-workers and the teacher's principal; furthermore, evidence from other contract years was admissible. King v. Worth County Bd. of Educ., 324 Ga. App. 208, 749 S.E.2d 791 (2013).

Grounds for Termination or Suspension

Evidence sufficient to support termination.

Nonrenewal of a teacher's contract un-

20-2-942. Procedure for nonrenewal after acceptance by teacher of school year contract for fourth consecutive school year; procedure for nonrenewal by another local board of education; professional certificated personnel; rights of school administrators; tenure.

(a) As used in this Code section, the term:

(1) "Local board of education" or "local board" means a county or independent board of education, a board of education of an area school system, or any agent with the authority to act on behalf of any such board.

(1.1) "School administrator" means any professional school employee certificated by the Professional Standards Commission who is required to hold a leadership certificate and is assigned to a leadership position pursuant to rules of the State Board of Education, Department of Education, Professional Standards Commission, or requirements of local policy or job description.

(2) "School year" means a period of at least 180 school days, or the equivalent thereof as determined in accordance with State Board of Education guidelines, beginning in or about September and ending in or about June.

(3) "School year contract" means a contract of full-time employment between a teacher and a local board of education covering a full school year. A contract of employment for a portion of a school year shall not be counted as a school year contract, nor shall contracts of employment for portions of a school year be cumulated and treated as a school year contract. A contract of employment for any time outside a school year shall not be counted as a school year contract, nor shall contracts of employment for time outside a school year be cumulated

and treated as a school year contract. A school year contract is deemed included within a contract of full-time employment between a teacher and a local board of education covering a full calendar or fiscal year.

(4) "Teacher" means any professional school employee certificated by the Professional Standards Commission, but not including school administrators.

(b)(1) A teacher who accepts a school year contract for the fourth consecutive school year from the same local board of education may be demoted or the teacher's contract may not be renewed only for those reasons set forth in subsection (a) of Code Section 20-2-940.

(2) In order to demote or fail to renew the contract of a teacher who accepts a school year contract for the fourth or subsequent consecutive school year from the same local board of education, the teacher must be given written notice of the intention to demote or not renew the contract of the teacher. Such notice shall be given by certified mail or statutory overnight delivery as provided in subsection (c) of Code Section 20-2-940. Such notice shall contain a conspicuous statement in substantially the following form:

You have the right to certain procedural safeguards before you can be demoted or dismissed. These safeguards include the right to notice of the reasons for the action against you and the right to a hearing. If you desire these rights you must send to the school superintendent by certified mail or statutory overnight delivery a statement that you wish to have a hearing; and such statement must be mailed to the school superintendent within 20 days after this notice was mailed to you. Your rights are governed by subsection (b) of Code Section 20-2-211, Code Section 20-2-940, and Code Sections 20-2-942 through 20-2-947, and a copy of this law is enclosed.

A copy of subsection (b) of Code Section 20-2-211, Code Section 20-2-940, this Code section, and Code Sections 20-2-943 through 20-2-947 shall be enclosed with the notice. A teacher who is so notified that he or she is to be demoted or that his or her contract will not be renewed has the right to the procedures set forth in subsections (b) through (f) of Code Section 20-2-940 before the intended action is taken. A teacher who has the right to these procedures must serve written notice on the superintendent of the local board employing the teacher within 20 days of the day the notice of the intended action is served that he or she requests a hearing. In order to be effective, such written notice that the teacher requests implementation of such procedures must be served by certified mail or statutory overnight delivery as provided in subsection (c) of Code Section 20-2-940.

Within 14 days of service of the request to implement the procedures, the local board must furnish the teacher a notice that complies with the requirements of subsection (b) of Code Section 20-2-940.

(3) A teacher is deemed to have accepted a fourth consecutive school year contract if, while the teacher is serving under the third consecutive school year contract, the local board does not serve notice on the teacher by May 15 that it intends not to renew the teacher's contract for the ensuing school year, and the teacher does not serve notice in writing on the local board of education by June 1 of the third consecutive school year that he or she does not accept the fourth consecutive school year contract.

(4) A teacher who has satisfied the conditions set forth in paragraph (1) of this subsection who is subsequently employed by another local board of education and who accepts a second consecutive school year contract from the local board at which the teacher is subsequently employed may be demoted or the teacher's contract may not be renewed only for those reasons set forth in subsection (a) of Code Section 20-2-940. The provisions set forth in paragraph (2) of this subsection shall likewise apply to such a teacher.

(5) A teacher is deemed to have accepted a second consecutive school year contract if, while the teacher is serving under the first school year contract, the local board does not serve notice on the teacher by May 15 that it intends not to renew the teacher's contract for the ensuing school year, and the teacher does not serve notice in writing on the local board of education by June 1 of the first school year that he or she does not accept the second consecutive school year contract.

(6) Local boards shall make contract offers available to teachers for a minimum ten-day review period. A teacher accepts the contract by signing and returning it any time during the ten-day period.

(7)(A) Professional certificated personnel employed by a county or independent local school system that becomes consolidated with or merged into another county or independent local school system as provided in Article 8 of this chapter or otherwise shall retain their employment, except as provided in subparagraph (B) of this paragraph, in the newly created, or surviving, school system. Such professional certificated personnel shall retain and carry over all the rights already accrued and earned in the professional certificated personnel's prior school system and as set forth in this paragraph.

(B) Any reductions in staff due to loss of students or cancellation of programs in the newly created, or surviving, school system necessitated by the consolidation or merger shall be made first in

preference of retaining professional certificated personnel on the basis of uniformly applied criteria set forth in local school board policies of the newly created, or surviving, school system.

(c)(1) A person who first becomes a school administrator on or after April 7, 1995, shall not acquire any rights under this Code section to continued employment with respect to any position of school administrator. A school administrator who had acquired any rights to continued employment under this Code section prior to April 7, 1995, shall retain such rights:

(A) In that administrative position which such administrator held immediately prior to such date; and

(B) In any other administrative position to which such administrator has been involuntarily transferred or assigned,

and only in such positions shall such administrator be deemed to be a teacher for the purpose of retaining those rights to continued employment in such administrative positions.

(2) A teacher who had acquired any rights to continued employment under this Code section prior to April 7, 1995, and who is or becomes a school administrator without any break in employment with the local board for which the person had been a teacher shall retain those rights under this Code section to continued employment in the position as teacher with such local board.

(2.1) A local board of education may enter into an employment contract with a school administrator for a term not to exceed three years. During the term of any such contract, that school administrator may not be demoted except as provided in the other subsections of this Code section and may not be terminated or suspended except as provided in Code Section 20-2-940, but the school administrator shall have no right to renewal of such contract. The rights provided under such contracts by this paragraph shall be in addition to any rights which a school administrator may otherwise have under the other provisions of this subsection.

(3) Nothing in this subsection shall affect positions which, prior to April 7, 1995, had no rights to continued employment under this Code section, including coach, athletic director, finance officer, comptroller, business manager, nurse, department head or chairperson, and similar positions. Nothing in this subsection shall impair the rights of teachers or school administrators with respect to their employment under annual contracts, including but not limited to those rights under Code Section 20-2-940.

(4) Notwithstanding the other provisions of this subsection, a local board of education may, as part of its personnel policies, adopt or

modify a tenure policy which may include the same policies and procedures for the nonrenewal of contracts for any class or category of school administrators that exist for the nonrenewal of contracts for teachers as set forth in this Code section. Before any adoption or modification of a tenure policy, the local board shall hold a public hearing after at least 30 days' notice published in the local legal organ.

(d) A person who first became a teacher on or after July 1, 2000, shall acquire rights under this Code section to continued employment as a teacher. A teacher who had acquired any rights to continued employment under this Code section prior to July 1, 2000, shall retain such rights. (Ga. L. 1975, p. 360, § 3; Ga. L. 1982, p. 2188, §§ 1, 2; Ga. L. 1983, p. 3, §§ 16, 53; Ga. L. 1986, p. 300, § 2; Ga. L. 1987, p. 3, § 20; Ga. L. 1987, p. 1018, § 1; Ga. L. 1991, p. 1546, § 10; Ga. L. 1995, p. 304, §§ 1-3; Ga. L. 2000, p. 618, § 72; Ga. L. 2000, p. 1589, § 3; Ga. L. 2003, p. 896, § 2; Ga. L. 2009, p. 638, § 5/HB 193; Ga. L. 2015, p. 1376, § 38/HB 502.)

The 2015 amendment, effective July 1, 2015, in subsection (b), substituted "May 15" for "April 15" in paragraphs (b)(3) and (b)(5), substituted "June 1" for "May 1" in paragraphs (b)(3) and (b)(5),

and substituted "Such professional" for "Said professional" at the beginning of the second sentence in subparagraph (b)(7)(A).

JUDICIAL DECISIONS

Equal protection for teachers and paraprofessionals. — Elementary school orchestra and band teachers' equal protection claims failed because: (1) the school district had a rational basis for treating those teachers and Grades 1 through 3 paraprofessionals differently with regard to which employees would be retained since, inter alia, "teachers" and "paraprofessionals" were treated differently under Georgia law; and (2) the district was not collaterally estopped from defending against the equal protection claims since the district was not subject to offensive, non-mutual collateral estoppel. *Demaree v. Fulton County Sch. Dist.*, No. 12-15900, 2013 U.S. App. LEXIS 6994 (11th Cir. Apr. 8, 2013) (Unpublished).

Due process notice.

Notice given to a teacher of the nonrenewal of the teacher's contract adequately advised the teacher of the specific grounds for the non-renewal of the teacher's contract as well as the names of the witnesses who might be called to testify in

compliance with O.C.G.A. § 20-2-942(b). The notice also highlighted several specific incidents and noted that the teacher had had these problems for the past eight years. *King v. Worth County Bd. of Educ.*, 324 Ga. App. 208, 749 S.E.2d 791 (2013).

Appeal.

Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers' appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board's decision to reverse the local board's nonrenewal decisions because the local board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). *Clayton County Bd. of Educ. v. Wilmer*, 325 Ga. App. 637, 753 S.E.2d 459 (2014).

School district administrator could not claim tenure. — School district administrator, who had not obtained tenure

before the Georgia legislature abolished tenure for administrators by the enactment of O.C.G.A. § 20-2-942(c)(1), which was made effective on April 7, 1995, was not entitled to due process and the protections of the Georgia Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq., because the administrator did not have a property interest in the administrator's job. *West v. Dooly County Sch. Dist.*, 316 Ga. App. 330, 729 S.E.2d 469 (2012).

Administrator not entitled to demotion hearing. — Trial court erred in finding that an elementary school principal

was entitled to a demotion hearing pursuant to the Fair Dismissal Act, O.C.G.A. § 20-2-940 et seq., in addition to offering the administrator continued employment as a teacher because the principal did not become an administrator until August 1995, four months after amendments to the Act took effect; however, the administrator retained the administrator's rights as a tenured teacher under the grandfather clause, O.C.G.A. § 20-2-942(c)(2). *DeKalb County Sch. Dist. v. Butler*, 295 Ga. 672, 763 S.E.2d 473 (2014).

20-2-947. Part does not authorize contracts of employment.

JUDICIAL DECISIONS

Cited in *West v. Dooly County Sch. Dist.*, 316 Ga. App. 330, 729 S.E.2d 469 (2012).

PART 11

COMPLAINTS POLICY

20-2-989.7. Matters not subject to complaint.

(a) The performance ratings contained in personnel evaluations conducted pursuant to Code Section 20-2-210, professional development plans, and job performance shall not be subject to complaint under the provisions of this part. The termination, nonrenewal, demotion, suspension, or reprimand of any employee, as set forth in Code Section 20-2-940, and the revocation, suspension, or denial of certificates of any employee, as set forth in Code Section 20-2-984.5, shall not be subject to complaint under the provisions of this part.

(b) A certified employee who chooses to appeal under Code Section 20-2-1160 shall be barred from pursuing the same complaint under this part. (Code 1981, § 20-2-989.7, enacted by Ga. L. 1992, p. 3303, § 1; Ga. L. 1999, p. 81, § 20; Ga. L. 2013, p. 1091, § 5/HB 244.)

The 2013 amendment, effective July 1, 2014, substituted “evaluations conducted pursuant to Code Section 20-2-210, professional development plans,” for “evaluations and professional development plans pursuant to Code Section 20-2-210” in the first sentence of subsection (a). See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 1091, § 6/HB 244, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2014, and shall be applicable beginning in school year 2014-2015.”

ARTICLE 18

**LIABILITY INSURANCE FOR STATE AND LOCAL SCHOOL
OFFICIALS AND EMPLOYEES**

20-2-991. Liability insurance for performance of duties authorized; actions against insurers.

Cross references. — Liability insurance, § 24-4-411.

ARTICLE 18A

LIABILITY OF EDUCATORS FOR DISCIPLINING STUDENTS

20-2-1000. Limitation on civil damages for disciplining student; “educator” defined; frivolous or nonmeritorious actions; legal counsel for the educator.

(a) As used in this Code section, the term “educator” means any principal, school administrator, teacher, school counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) No educator shall be liable for any civil damages for, or arising out of, any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, except for acts or omissions of willful or wanton misconduct.

(c) If a judgment or finding is rendered in favor of a defendant educator in any action, complaint, disciplinary proceeding, or other administrative proceeding brought by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or resulting from the discipline of such student or if the complaint is found to be nonmeritorious, frivolous, or without just cause, all reasonable court costs, reasonable attorneys’ fees, and reasonable expenses incurred by the defendant educator in defending such action or complaint shall be assessed by the court, agency, or other tribunal against the plaintiff and shall be paid by the plaintiff. Any educator shall have a right to bring an action or a counterclaim against the plaintiff in any such action or proceeding for any damages suffered by the educator as a result of the actions of the student or the filing of any frivolous or nonmeritorious action, complaint, or report. Nothing in this subsection shall be construed to apply to any educator filing a complaint as required by the rules, regulations, or code of ethics of the Professional Standards Commission; any child abuse reporting statute; any applicable local board of education rule, regulation, or policy; or any State Board of Education rule, regulation, or policy.

(d) If any civil action is brought against any educator or any report or complaint is made or filed against any educator with the county or local board of education, the Department of Education, the Professional Standards Commission, or any other regulatory agency or tribunal by a student, a parent or guardian of a student, or any other person on behalf of a student and arising out of or relating to the discipline of such student, it shall be the duty of the county or local board of education employing such educator to provide counsel for the educator, if requested by the educator, unless such board of education determines, after an independent investigation of the report or complaint, that the act or omission of the educator constituted willful or wanton misconduct or constituted gross misconduct in violation of the express written policies of the board of education. Neither testimony given in such independent investigation nor the results of any such independent investigation by the board of education shall be admissible in any other proceeding. The provision of counsel to such educator shall be for an educational purpose and any funds available to the board of education may be expended for such purpose. Any attorneys' fees recovered pursuant to subsection (c) of this Code section attributable to the services furnished by any counsel provided to an educator by his or her employer shall be paid to the employer. (Code 1981, § 20-2-1000, enacted by Ga. L. 1995, p. 772, § 1; Ga. L. 1997, p. 1436, § 10; Ga. L. 1998, p. 750, § 9; Ga. L. 1999, p. 81, § 20; Ga. L. 2013, p. 1061, § 33/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted "school counselor" for "guidance counselor" near the middle of subsection (a).

20-2-1001. Limited immunity from criminal liability.

(a) As used in this Code section, the term "educator" means any principal, school administrator, teacher, school counselor, paraprofessional, school bus driver, volunteer assisting teachers in the classroom, tribunal members, or certificated professional personnel.

(b) An educator shall be immune from criminal liability for any act or omission concerning, relating to, or resulting from the discipline of any student or the reporting of any student for misconduct, provided that the educator acted in good faith. (Code 1981, § 20-2-1001, enacted by Ga. L. 1997, p. 1436, § 11; Ga. L. 2013, p. 1061, § 33/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted "school counselor" for "guidance counselor" near the middle of subsection (a).

JUDICIAL DECISIONS

Educator entitled to immunity. — teacher, was indicted on six counts of When the defendant, a special education cruelty to children and five counts of false

imprisonment for actions involving five students, the defendant was entitled to the benefits of the immunity statute because the evidence was sufficient to show by a preponderance of the evidence that the defendant's actions were undertaken to maintain discipline and restore order in the defendant's classroom; and that the

defendant acted in good faith as the defendant told an investigator that the defendant's actions were never malicious, that the defendant never tried to hurt any of the students, and that whatever the defendant did with the students was aimed at helping the students. *State v. Pickens*, 330 Ga. App. 862, 769 S.E.2d 594 (2015).

ARTICLE 19

INSTRUCTIONAL MATERIALS AND CONTENT

Editor's notes. — Ga. L. 2015, p. 1031, § 2-1/SB 89, not codified by the General Assembly, provides: "This Act shall be

known and may be cited as the 'Digital Classroom Act.'"

20-2-1010. Instructional materials and content.

(a) The State Board of Education is authorized to prescribe, by regulation, the definition of the term "instructional materials and content" to include but not be limited to systematically designed material in any medium, including digital instructional materials and content and any computer hardware, software, and technical equipment necessary to support such instructional materials and content, that constitutes the principal source of study for a state funded course to be used in the various grades in the public schools of this state, including the elementary grades and high school grades. The state board may provide, by regulation, for multiple listings of instructional materials and content for use in the various grades and may, in its discretion, authorize the local school superintendents to exercise a choice as between various instructional materials and content so listed or adopted for any particular grade.

(b) Nothing in this Code section shall be construed to exempt computer hardware or related equipment acquired by the state from competitive bidding. (Ga. L. 1937, p. 896, § 1; Ga. L. 1994, p. 1667, § 1; Ga. L. 2010, p. 547, § 1/SB 319; Ga. L. 2011, p. 752, § 20/HB 142; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, in subsection (a), substituted the present provisions of subsection (a) for the former provisions, which read: "The State Board of Education is authorized to prescribe, by regulation, the definition of the term 'textbook' to include but not be limited to systematically designed material in any medium, whether print, nonprint, or digital including any computer hardware, software, and technical equipment

necessary to support such material, that constitutes the principal source of study for a state funded course and to prescribe the textbooks to be used in the various grades in the public schools of this state, including the elementary grades and high school grades. The state board may provide, by regulation, for multiple listings of textbooks for use in the various grades and may, in its discretion, authorize the local school superintendents to exercise a

choice as between textbooks so listed or adopted for any particular grade.”

20-2-1011. Selecting, acquiring, and purchasing instructional materials and content; exclusion of partisan or sectarian material.

The State Board of Education may provide for the selection, acquisition, or purchase of instructional materials and content either by multiple listings or uniform adoption or by any other method that will enable the acquiring of acceptable instructional materials and content at the lowest possible costs, provided such adoption or multiple listings shall in no event constitute a binding contract until ratified in writing by the state board. None of the instructional materials and content so purchased shall contain anything of a partisan or sectarian nature. (Ga. L. 1937, p. 896, § 1; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, substituted “selection, acquisition, or purchase of instructional materials and content” for “selection and purchase of free textbooks” in the first

sentence of this Code section, and substituted “instructional materials and content” for “books” in the first and second sentences.

20-2-1012. Committee recommendations on instructional materials and content; additions to approved lists.

(a) The State Board of Education shall select a committee or committees of educators actually engaged in public school work in this state to examine instructional materials and content and make recommendations thereon to the state board. Such committee or committees shall consist of such number of educators as the state board may deem advisable, not exceeding five in each instance. They shall serve for such time and for such duties as the state board may prescribe and shall receive such compensation as may be fixed by the state board.

(b) In addition to any other method of instructional materials and content selection, the State Board of Education shall add to the approved list of instructional materials and content for use in the public schools of this state any instructional materials and content requested in writing by:

(1) The superintendents of five or more different school systems; or

(2) Twenty or more teachers from at least 20 different school systems who teach and are certified to teach the courses encompassed by the instructional materials and content requested,

if the requisite number of requests for the specified instructional materials and content are received within any 365 day period. Instruc-

tional materials and content so required to be added to the approved list shall be added within 30 days following the receipt by the state board of the requisite number of requests. No designation shall be included upon the approved list which indicates the manner in which any instructional materials and content were added to the list. Other than the selection method, publishers whose instructional materials and content are added to the approved list as provided in this subsection shall be required to comply with the same rules regarding instructional materials and content as other publishers, including but not limited to price, durability, accessibility, and availability. (Ga. L. 1937, p. 896, § 2; Ga. L. 1995, p. 1017, § 1; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, substituted “instructional materials and content” for “textbooks” in subsections (a), (b), and in the undesignated paragraph of subsection (b), substituted “instructional materials and content” for “textbook” in subsection (b), paragraph (b)(2), and in the undesignated paragraph of subsection (b), substituted “instructional materials and content” for “text-

book or series of textbooks” in subsection (b), substituted “Instructional materials and content” for “A textbook” in the undesignated paragraph of subsection (b), substituted “instructional materials and content were” for “textbook was” in the undesignated paragraph of subsection (b), and inserted “accessibility,” at the end of the undesignated paragraph of subsection (b).

20-2-1013. Free instructional materials and content; care and protection of instructional materials, library books, and media materials; reimbursement by pupils or parents.

- (a) The State Board of Education is authorized and directed to inaugurate and administer a system of free instructional materials and content for the public schools of this state. The state board shall have authority to promulgate and enforce such rules and regulations as may be necessary for that purpose.
- (b) All instructional materials and content and any computer hardware, software, and technical equipment necessary to support such digital materials and content purchased by local units of administration with state Quality Basic Education Program funds or any other means of acquisition may remain the property of the local unit purchasing or acquiring them. Assistive technology devices that are acquired may remain the property of the student; provided, however, that this shall not be construed to violate any contracts or copyright laws. Each local unit of administration shall establish such policies as it deems necessary for the care and protection of its instructional materials and content; computer hardware, software, and technical equipment necessary to support such materials and content; library books; and media materials as a condition to receiving all or part of the state contributed Quality Basic Education Program funds allotted to the local unit. Such policies may include any of the following sanctions

against a pupil who fails or refuses to pay for any lost or damaged instructional materials and content; computer hardware, software, and technical equipment necessary to support such materials and content; library book; or media material at the replacement cost:

(1) Refusal to issue or make available any additional instructional materials and content, any computer hardware, software, and technical equipment necessary to support such materials and content, any library books, or any media materials until restitution is made; or

(2) Withholding of all grade cards, diplomas, or certificates of progress until restitution is made.

No local unit of administration shall require any pupil or parent to purchase any instructional materials and content; computer hardware, software, and technical equipment necessary to support such materials and content; library book; or media material except in cases where the pupil damages, loses, or defaces such item either through willful intent or neglect. (Ga. L. 1937, p. 896, § 3; Ga. L. 1994, p. 1936, § 2; Ga. L. 2012, p. 893, § 6/SB 289; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, in subsection (a), substituted “instructional materials and content” for “textbooks” in the middle of the first sentence; and substituted the present provisions of subsection (b) for the former provisions, which read: “(b) All hardbound or softbound textbooks, library books, and media materials purchased by local units of administration with state Quality Basic Education Program funds or any other means of acquisition shall remain the property of the local unit purchasing or acquiring them. Assistive technology devices and digital versions of textbooks that are acquired may remain the property of the student; provided, however, that this shall not be construed to violate any contracts or copyright laws. Each local unit of administration shall establish such policies as it deems necessary for the

care and protection of its textbooks, library books, and media materials as a condition to receiving all or part of the state contributed Quality Basic Education Program funds allotted to the local unit. Such policies may include any of the following sanctions against a pupil who fails or refuses to pay for a lost or damaged textbook, library book, or media material at the replacement cost:

“(1) Refusal to issue any additional textbooks, library books, or media materials until restitution is made; or

“(2) Withholding of all grade cards, diplomas, or certificates of progress until restitution is made.

“No local unit of administration shall require any pupil or parent to purchase any textbook, library book, or media material except in cases where the pupil damages, loses, or defaces such item either through willful intent or neglect.”

20-2-1014. Purchases to be at lowest price offered other schools.

All purchases or contracts for purchases shall be made subject to the condition that the price paid by the state shall not exceed the price which may be offered by the publisher to any other school or school authority for substantially the same instructional materials and con-

tent. (Ga. L. 1937, p. 896, § 4; Ga. L. 1982, p. 3, § 20; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, substituted “instructional materials and content” for “book” at the end of this Code section.

20-2-1015. Instructional materials and content in digital or electronic format; funding.

(a) Local boards of education are strongly encouraged on and after July 1, 2020 to:

- (1) Purchase all instructional materials and content in digital or electronic format; and
- (2) Provide a laptop, tablet, or other wireless electronic device to each of its students in grades three and higher or allow students to provide their own for use as the principal source of reading or accessing instructional materials and content.

(b) The State Board of Education shall annually determine a reasonable level of funding to assist local boards of education in attaining complete digital access pursuant to this Code section. Such level of funding shall annually be presented to the General Assembly for its consideration in including appropriations for such purposes. (Code 1981, § 20-2-1015, enacted by Ga. L. 2001, p. 1048, § 1; Ga. L. 2012, p. 893, § 7/SB 289; Ga. L. 2015, p. 1031, § 2-2/SB 89.)

The 2015 amendment, effective July 1, 2015, substituted the present provisions of this Code section for the former provisions, which read: “The publisher of a textbook recommended by the State Board of Education shall provide an electronic format version of such textbook, which may include a digital version.”

20-2-1016. Exceptions.

This article shall not apply to students in home study programs or virtual courses. (Code 1981, § 20-2-2016, enacted by Ga. L. 2015, p. 1031, § 2-2/SB 89.)

Effective date. — This Code section became effective July 1, 2015. Section 20-2-2016, as enacted by Ga. L. 2015, p. 1031, § 2-2/SB 89, was redesignated as Code Section 20-2-1016.

Code Commission notes. — Pursuant to Code Section 28-9-5, in 2015, Code

ARTICLE 19A

CELEBRATE FREEDOM WEEK

Effective date. — This article became effective July 1, 2015.

20-2-1020. Establishment of Celebrate Freedom Week; purpose.

(a) To educate students about the sacrifices made for freedom in the founding of this country and the values, principles, and philosophies on which this country was founded, it is strongly encouraged that the full week in September which includes Constitution Day, September 17, is recognized in public elementary, middle, and high schools in this state as Celebrate Freedom Week. It is strongly encouraged that Celebrate Freedom Week include approximately three hours of appropriate instruction, as determined by each local school system, in each social studies class. It is strongly encouraged that the instruction include an age-appropriate study of the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context including the background of the colonial era along with instruction about the Founding Fathers, such as the signers of the Declaration of Independence and the United States Constitution, the first six Presidents, and particularly George Washington. The religious references in the writings of the Founding Fathers shall not be censored. During Celebrate Freedom Week, it is strongly encouraged that local school systems suggest that students in grades three through 12 read at least one book during the school year that focuses on the Founding Era, either the times and events or the people who made significant contributions to independence or toward establishing the new federal or state governments. In addition, local school systems are strongly encouraged to require students in grades three through 12 to recite at least one of the following three excerpts at least once during the week, and local school systems are encouraged to require daily recitations from one or all of these excerpts at the beginning of each school day:

(1) From the Declaration of Independence:

We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed;

(2) From the Preamble of the U.S. Constitution:

We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.; or

(3) From the First Amendment of the Bill of Rights:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

(b) Upon written request from a student's parent or guardian, a local school system shall excuse the student from the recitation required by this Code section. This Code section shall not apply to a student who:

(1) Has a conscientious objection to the recitation; or

(2) Is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

(c) This Code section shall apply beginning with the 2016-2017 school year. (Code 1981, § 20-2-1020, enacted by Ga. L. 2015, p. 1376, § 38A/HB 502.)

20-2-1021. Display of historically significant documents.

(a) To increase student understanding of, and familiarity with, American historical documents, public schools may display historically important excerpts from, or copies of, those documents in school classrooms and common areas as appropriate. Local boards of education and charter schools are strongly encouraged to allow and may encourage any public school teacher or administrator to read or post in a public school building, classroom, or event excerpts or portions of writings, documents, records, or images that reflect the history of the United States, including, but not limited to:

(1) The Preamble to the Georgia Constitution;

(2) The Declaration of Independence;

(3) The United States Constitution, with emphasis on the 13th, 14th, and 15th Amendments;

(4) The Bill of Rights;

(5) The Mayflower Compact;

(6) The national motto;

(7) The Pledge of Allegiance to the United States flag;

(7.1) The Pledge of Allegiance to the Georgia flag;

(8) The National Anthem;

(9) The writings, speeches, documents, and proclamations of the Founding Fathers and Presidents of the United States;

(9.1) The Emancipation Proclamation;

(9.2) The Gettysburg Address;

(10) Decisions of the United States Supreme Court; and

(11) Acts of the Congress of the United States, including the published text of the Congressional Record.

(b) As historical documents, there shall be no content based censorship of American history and heritage documents referred to in this Code section due to their religious or cultural nature. (Code 1981, § 20-2-1021, enacted by Ga. L. 2015, p. 1376, § 38A/HB 502.)

20-2-1022. Digital resources for educators.

To increase student understanding of, and familiarity with, American historical documents and to provide curriculum support to classroom teachers of United States history, American government and civics, economics, and social studies, the Department of Education is strongly encouraged to create an online instructional resource page or pages for teachers, which may include, but is not limited to, links to websites, foundational documents, and lesson plan ideas. In order to create shared digital resources available to all students in this state, such online resources may be integrated with the Teacher Resource Link of the Statewide Longitudinal Data System. At a minimum, such resource page or pages may include the items in paragraphs (1) through (11) of subsection (a) of Code Section 20-2-1021 and may focus on the foundational principles of limited constitutional government, federalism, religious liberty, freedom of speech, the right to private property, free enterprise, and the rule of law. There shall be no content based censorship of American history, writings of the Founding Fathers, or heritage documents referred to in this Code section due to their religious or cultural nature. It is strongly encouraged that the online teacher resource page be completed and made easily available to teachers no later than July 31, 2016, and support the requirements specified in Code Section 20-2-1020. (Code 1981, § 20-2-1022, enacted by Ga. L. 2015, p. 1376, § 38A/HB 502.)

ARTICLE 24

ELIMINATION OF ADULT ILLITERACY

20-2-1140 and 20-2-1141.

Reserved. Repealed by Ga. L. 1988, p. 1252, § 1, effective July 1, 1988.

Editor's notes. — Ga. L. 2014, p. 866, § 20/SB 340, effective April 29, 2014, reserved the designation of this article.

ARTICLE 25

SCHOOL LAW TRIBUNALS; APPEALS

Law reviews. — For annual survey on administrative law, see 66 Mercer L. Rev. 1 (2014).

20-2-1160. Local boards to be tribunals to determine school law controversies; appeals; special provisions for disabled children.

(a) Every county, city, or other independent board of education shall constitute a tribunal for hearing and determining any matter of local controversy in reference to the construction or administration of the school law, with power to summon witnesses and take testimony if necessary. When such local board has made a decision, it shall be binding on the parties; provided, however, that the board shall notify the parties in writing of the decision and of their right to appeal the decision to the State Board of Education and shall clearly describe the procedure and requirements for such an appeal which are provided in subsection (b) of this Code section.

(b) Any party aggrieved by a decision of the local board rendered on a contested issue after a hearing shall have the right to appeal therefrom to the State Board of Education. The appeal shall be in writing and shall distinctly set forth the question in dispute, the decision of the local board, and a concise statement of the reasons why the decision is complained of; and the party taking the appeal shall also file with the appeal a transcript of testimony certified as true and correct by the local school superintendent. The appeal shall be filed with the superintendent within 30 days of the decision of the local board, and within ten days thereafter it shall be the duty of the superintendent to transmit a copy of the appeal together with the transcript of evidence and proceedings, the decision of the local board, and other matters in the file relating to the appeal to the state board. The state board shall adopt regulations governing the procedure for hearings before the local board and proceedings before it. The state board may affirm, reverse, or remand the local board decision or may refer the matter to mediation.

(c) Where an appeal is taken to the state board, the state board shall notify the parties in writing of its decision within 25 days after hearing thereon and of their right to appeal the decision to the superior court of the county wherein the local board of education is located and shall clearly describe the procedure and requirements for such an appeal which are provided in this subsection and in subsection (d) of this Code section. Any party aggrieved thereby may appeal to the superior court

of the county wherein the local board of education is situated. Such appeal shall be filed in writing within 30 days after the decision of the state board. Within ten days after filing of such appeal, it shall be the duty of the State School Superintendent to transmit to the superior court a copy of the record and transcript sent up from the local board as well as the decision and any order of the state board, certified as true and correct.

(d) The following form shall be sufficient for an appeal:

“In re _____

_____ hereby appeals to the _____ from the decision of _____ rendered in the above-stated matter on _____.

This ____ day of _____, _____.”

(e) Neither the state board nor the superior court shall consider any question in matters before the local board nor consider the matter de novo, and the review by the state board or the superior court shall be confined to the record. In the superior court, the appeal shall be determined by the judge sitting without a jury.

(f) The procedures provided in subsections (a) through (e) of this Code section shall not be applicable to disabled children when a hearing is necessary to decide a complaint made under the federal Education for All Handicapped Children Act of 1975. The state board shall promulgate by rules and regulations an impartial due process procedure for hearing and determining any matter of local controversy in reference to the construction or administration of the school law with respect to disabled children as such term is defined by the state board. Any tribunal which the state board shall empower to hear such cases shall have the power to summon witnesses and take testimony as such tribunal deems it necessary. In promulgating such rules and regulations, the state board shall consult with local boards of education and other local school officials in order to establish procedures required by this subsection which will coordinate, to the extent practicable, with the administrative practices of such local boards. (Ga. L. 1919, p. 288, § 85; Code 1933, § 32-910; Ga. L. 1947, p. 1189, §§ 1, 3a; Ga. L. 1961, p. 39, § 1; Ga. L. 1969, p. 708, § 1; Ga. L. 1977, p. 875, § 1; Ga. L. 1980, p. 1508, § 1; Ga. L. 1986, p. 216, § 1; Ga. L. 1992, p. 6, § 20; Ga. L. 1993, p. 1279, § 13.1; Ga. L. 1995, p. 1302, § 14; Ga. L. 1999, p. 81, § 20; Ga. L. 2015, p. 1376, § 39/HB 502.)

The 2015 amendment, effective July 1, 2015, added the last sentence in subsection (b).

JUDICIAL DECISIONS

ANALYSIS

APPEAL TO STATE BOARD
JUDICIAL PROCEEDINGS

Appeal to State Board

State Board had jurisdiction although local board failed to give proper notice. — Although a superior court erred in ruling that the State Board of Education lacked jurisdiction over two tenured teachers’ appeals from their nonrenewal under O.C.G.A. § 20-2-942 because the appeals were more than 30 days from the date the local board voted, the superior court properly affirmed the State Board’s decision to reverse the local board’s nonrenewal decisions because the local board failed to comply with the decision and notice requirements of O.C.G.A. § 20-2-1160(a). Clayton County Bd. of Educ. v. Wilmer, 325 Ga. App. 637, 753 S.E.2d 459 (2014).

Appeal not moot where misconduct is contested issue before local board. — After a student was expelled for violations of the local board of education’s code of student conduct, because the determination of the student’s misconduct was a contested issue before the local board, the student was allowed to appeal the decision, and the superior court did not err in ruling that the student’s appeal to the state board of education was not moot; however, despite its initial ruling that the appeal was moot, the state board reviewed the local board’s decision on the merits and found that the student had not been suspended from school before the disciplinary hearing and, therefore, was provided a timely hearing. Fulton County Bd.

of Educ. v. D. R. H., 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Judicial Proceedings

Under subsection (e), on review, state board and superior court shall be confined to record.

After a student was expelled for violations of the local board of education’s code of student conduct, the superior court erred by not confining the board’s review to the record or the issues raised before the local board by citing to newspapers and online college admissions applications purportedly indicating that many colleges required high schools to submit disciplinary records for prospective students and also asked prospective students to self-report infractions. Fulton County Bd. of Educ. v. D. R. H., 325 Ga. App. 53, 752 S.E.2d 103 (2013).

Court without authority when issue not raised below. — Trial court erred in reversing the State Board of Education’s decision affirming the local board of education’s termination of a teacher’s employment on the basis that the hearing tribunal failed to timely provide the tribunal’s findings of fact and recommendations to the local board because the teacher failed to raise the issue prior to the appeal to the trial court; thus, the court was prohibited from considering the issue and also prohibited from reviewing the decision of the State Board de novo. Clayton County Bd. of Educ. v. Vollmer, 328 Ga. App. 894, 763 S.E.2d 277 (2014).

ARTICLE 27

LOITERING AT OR DISRUPTING SCHOOLS

20-2-1180. Loitering in or on a school safety zone; penalty; required check in of visitors; posting signs of required check in.

(a) It shall be unlawful for any person to remain in or on any school safety zone in this state or to remain in or on any such school safety zone when such person does not have a legitimate cause or need to be present thereon. Each principal or designee of each public or private school in this state shall have the authority to exercise such control over the buildings and grounds upon which a school is located so as to prohibit any person who does not have a legitimate need or cause to be present thereon from loitering upon such premises. Each principal or designee of each public or private school in this state shall notify the appropriate law enforcement agency to prohibit any person who does not have a legitimate need or cause to be present therein from loitering within the school safety zone.

(b) Any person who:

(1) Is present in or on any school safety zone in this state and willfully fails to remove himself or herself from such school safety zone after the principal or designee of such school requests him or her to do so; or

(2) Fails to check in at the designated location as required by subsection (c) of this Code section

shall be guilty of a misdemeanor of a high and aggravated nature.

(c) Upon entering any school building between the official starting time and the official dismissal time, any person who is not a student at such school, an employee of the school or school system, a school board member, an approved volunteer following the established guidelines of the school, or a person who has been invited to or otherwise authorized to be at the school by a principal, teacher, counselor, or other authorized employee of the school shall check in at the designated location as stated on posted signs and provide a reason for his or her presence at the school.

(c.1) Subsections (b) and (c) of this Code section shall not apply to:

(1) Law enforcement officers, firefighters, emergency medical technicians or paramedics, or any public safety or emergency management officials in the performance of an emergency call or to other persons making authorized deliveries to the school;

(2) Any person entering a school on election day, for purposes of voting, when the school serves as an official polling place; or

(3) Any person attending or participating in an academic or athletic event while remaining in the authorized area or a parent, grandparent, or guardian listed on a child's pick-up list who fails to sign-in while delivering school supplies, food, clothing, other legitimate business and who has not previously been sanctioned by school officials for disrupting a school.

(d) A school administrator or his or her designee may ask any visitor to explain his or her presence in the school building at any time when the school is in official session.

(e) If the school posts signs on entrances to the school requiring visitors to check in at the designated location, such signs shall be deemed prima-facie evidence that persons entering the school were on notice of the requirements of this Code section.

(f) Nothing in this Code section shall be construed to prohibit school administrators from prohibiting the admission of any person who has violated school policy or state law.

(g) As used in this Code section, the term "school safety zone" shall have the same meaning as set forth in Code Section 16-11-127.1. (Ga. L. 1973, p. 719, §§ 1, 2; Ga. L. 1994, p. 1012, § 5; Ga. L. 2002, p. 1078, § 1; Ga. L. 2006, p. 519, § 4/HB 1302; Ga. L. 2014, p. 432, § 2-10/HB 826; Ga. L. 2014, p. 599, § 3-4/HB 60.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, substituted the present provisions of the first sentence of subsection (a) for the former provisions, which read: "It shall be unlawful for any person to remain upon the premises or within the school safety zone as defined in paragraph (1) of subsection (a) of Code Section 16-11-127.1 of any public or private school in this state or to remain upon such premises or within such school safety zone when that person does not have a legitimate cause or need to be present thereon."; in paragraph (b)(1), substituted "present in or on any school safety zone" for "present upon the premises or within the school safety zone of any

public or private school" near the beginning and substituted "school safety zone" for "premises" near the end; and added subsection (g). The second 2014 amendment, effective July 1, 2014, deleted "paragraph (1) of subsection (a) of" following "as defined in" in the first sentence of subsection (a).

Editor's notes. — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: "This Act shall be known and may be cited as the 'Safe Carry Protection Act.'"

Law reviews. — For article on the 2014 amendment of this Code section, see 31 Ga. St. U.L. Rev. 47 (2014).

JUDICIAL DECISIONS

Evidence insufficient. — Defendant was entitled to reversal of a conviction for loitering upon school premises because

the evidence showed that from the time the assistant principal first spoke with the defendant and walked out of the building

with the defendant, two to four minutes elapsed and that the principal's conversation with the defendant and the defendant's conversation with police took place

only seconds apart, and then the defendant left. *Isenhower v. State*, 324 Ga. App. 380, 750 S.E.2d 703 (2013).

20-2-1184. Reporting of students committing prohibited acts.

(a) Any teacher or other person employed at any public or private elementary or secondary school or any dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by Code Section 16-5-21 or 16-5-24, Chapter 6 of Title 16, and Code Section 16-11-127, 16-11-127.1, 16-11-132, or 16-13-30, shall immediately report the act and the name of the student to the principal or president of that school or the principal's or president's designee; provided, however, that an act which is prohibited by Code Section 16-11-127.1 shall be reported only when it involves a:

- (1) Firearm, as defined in Code Section 16-11-131;
- (2) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or
- (3) Weapon, as defined in Code Section 16-11-127.1, together with an assault.

(b) The principal or designee who receives a report made pursuant to subsection (a) of this Code section who has reasonable cause to believe that the report is valid shall make an oral report thereof immediately by telephone or otherwise to the appropriate school system superintendent and to the appropriate police authority and district attorney.

(c) Any person participating in the making of a report or causing a report to be made as authorized or required pursuant to this Code section or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this Code section is made in good faith.

(d) Any person required to make a report pursuant to this Code section who knowingly and willfully fails to do so shall be guilty of a misdemeanor. (Code 1981, § 20-2-1184, enacted by Ga. L. 1990, p. 1834, § 1; Ga. L. 1994, p. 1012, § 7; Ga. L. 2010, p. 963, § 2-12/SB 308; Ga. L. 2014, p. 432, § 2-11/HB 826; Ga. L. 2015, p. 805, § 11/HB 492.)

The 2014 amendment, effective July 1, 2014, substituted the present provisions of subsection (a) for the former pro-

visions, which read: "Any teacher or other person employed at any public or private elementary or secondary school or any

dean or public safety officer employed by a college or university who has reasonable cause to believe that a student at that school has committed any act upon school property or at any school function, which act is prohibited by any of the following:

“(1) Code Section 16-5-21, relating to aggravated assault if a firearm is involved;

“(2) Code Section 16-5-24, relating to aggravated battery;

“(3) Chapter 6 of Title 16, relating to sexual offenses;

“(4) Code Section 16-11-127, relating to carrying a weapon or long gun in an unauthorized location;

“(5) Code Section 16-11-127.1, relating to carrying weapons at school functions or

on school property or within school safety zones;

“(6) Code Section 16-11-132, relating to the illegal possession of a handgun by a person under 18 years of age; or

“(7) Code Section 16-13-30, relating to possession and other activities regarding marijuana and controlled substances,

“shall immediately report the act and the name of the student to the principal or president of that school or the principal’s or president’s designee.”

The 2015 amendment, effective July 1, 2015, added “; provided, however, that an act which is prohibited by Code Section 16-11-127.1 shall be reported only when it involves a:” at the end of subsection (a) and added paragraphs (a)(1) through (a)(3).

20-2-1185. School safety plans.

(a) Every public school shall prepare a school safety plan to help curb the growing incidence of violence in schools, to respond effectively to such incidents, and to provide a safe learning environment for Georgia’s children, teachers, and other school personnel. Such plan shall also address preparedness for natural disasters, hazardous materials or radiological accidents, acts of violence, and acts of terrorism. School safety plans of public schools shall be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, community leaders, other school employees and school district employees, and local law enforcement, fire service, public safety, and emergency management agencies. School safety plans of private schools may be prepared with input from students enrolled in that school, parents or legal guardians of such students, teachers in that school, other school employees, and local law enforcement, fire service, public safety, and emergency management agencies. Such plans shall be reviewed and, if necessary, updated annually. Such plans of public schools shall be submitted to the local emergency management agency.

(b) A public school may request funding assistance from the state for the installation of safety equipment including, but not limited to, video surveillance cameras, metal detectors, and other similar security devices. Funding may be provided to a public school in accordance with a school safety plan prepared by the school and approved by the local board of education, the Department of Education, and the Georgia Emergency Management Agency.

(c) School safety plans prepared by public schools shall address security issues in school safety zones as defined in Code Section

16-11-127.1. School safety plans should also address security issues involving the transportation of pupils to and from school and school functions when such transportation is furnished by the school or school system and school functions held during noninstructional hours.

(d) The Georgia Emergency Management Agency shall provide training and technical assistance to public school systems, and may provide this same training and technical assistance to private school systems, and independent private schools throughout this state in the area of emergency management and safe school operations. This training and technical assistance shall include, but not be limited to, crisis response team development, site surveys and safety audits, crisis management planning, exercise design, safe school planning, emergency operations planning, search and seizure, bomb threat management, and model school safety plans. (Code 1981, § 20-2-1185, enacted by Ga. L. 1994, p. 1012, § 3; Ga. L. 1999, p. 379, § 1; Ga. L. 2014, p. 432, § 2-12/HB 826; Ga. L. 2014, p. 599, § 3-5/HB 60.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, deleted “paragraph (1) of subsection (a) of” following “as defined in” in the first sentence of subsection (c). The second 2014 amendment, effective July 1, 2014, made identical changes.

Cross references. — Carrying weapons within certain school safety zones and at school functions, § 16-11-130.1.

Editor’s notes. — Ga. L. 2014, p. 599, § 1-1/HB 60, not codified by the General Assembly, provides: “This Act shall be known and may be cited as the ‘Safe Carry Protection Act.’”

Law reviews. — For article, “Students, Security, and Race,” see 63 Emory L. J. 1 (2013). For article on the 2014 amendment of this Code section, see 31 Ga. St. U.L. Rev. 47 (2014).

ARTICLE 31

CHARTER SCHOOLS ACT OF 1998

Law reviews. — For article, “Having it Both Ways: How Charter Schools Try to Obtain Funding of Public Schools and the

Autonomy of Private Schools,” see 63 Emory L. J. 303 (2013).

20-2-2062. Definitions.

As used in this article, the term:

(1) “Charter” means a performance based contract between a local board and a charter petitioner, the terms of which are approved by the local board and by the state board in the case of a local charter school, between the state board and a charter petitioner, the terms of which are approved by the state board in the case of a state chartered special school, or between a local board and the state board, the terms of which are approved by the state board in the case of a charter system. By entering into a charter, a charter petitioner and local

board shall be deemed to have agreed to be bound to all the provisions of this article as if such terms were set forth in the charter.

(1.1) “Charter attendance zone” means all or any portion of the local school system in which the charter school is located and may include all or any portion of other local school systems if the charter school is jointly authorized pursuant to subsection (c) of Code Section 20-2-2063.

(2) “Charter petitioner” means a local school, local board of education, private individual, private organization, or state or local public entity that submits or initiates a petition for a charter. The term “charter petitioner” does not include home study programs or schools, sectarian schools, religious schools, private for profit schools, private educational institutions not established, operated, or governed by the State of Georgia, or existing private schools. On and after July 1, 2013, a charter for a local charter school, if approved, shall be a three-party agreement between a charter petitioner, a local board of education, and the State Board of Education, and the charter petitioner for such local charter school shall be a party other than the local board of education.

(3) “Charter school” means a public school that is operating under the terms of a charter.

(3.1) “Charter system” means a local school system that is operating under the terms of a charter pursuant to Code Section 20-2-2063.2.

(4) “Conversion charter school” means a charter school that existed as a local school prior to becoming a charter school.

(4.1) “Educationally disadvantaged students” means all or a subset of the following: students who are economically disadvantaged, students with disabilities, limited English proficient students, neglected or delinquent students, and homeless students, as each such subset is defined by the State Board of Education in accordance with federal education guidelines and regulations.

(5) “Faculty and instructional staff members” means all certificated personnel assigned to the school on a full-time basis and all paraprofessionals assigned to the school on a full-time basis. The term “paraprofessional” shall have the same meaning as set out in Code Section 20-2-204.

(5.1) “Governing council” means a school level council of parents, teachers, administrators, and others who are involved in school level governance within a charter system.

(5.2) “High school cluster” means a high school and all of the middle and elementary schools which contain students who matric-

ulate to such high school. The schools in a high school cluster may include charter schools, local schools, or a combination of both.

(6) “Local board” means a county or independent board of education exercising control and management of a local school system pursuant to Article VIII, Section V, Paragraph II of the Constitution.

(7) “Local charter school” means a conversion charter school or start-up charter school that is operating under the terms of a charter between the charter petitioner and the local board.

(8) “Local revenue” means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds and local option sales tax for capital projects. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

(9) “Local school” means a public school in Georgia that is under the management and control of a local board.

(10) “Local school system” means the system of public schools established and maintained by a local board within its limits pursuant to Article VIII, Section V, Paragraph I of the Constitution.

(11) “Petition” means a proposal to establish a charter school or a charter system.

(12) “QBE formula earnings” means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated as the local five mill share in accordance with Code Section 20-2-164.

(12.1) “School level governance” means decision-making authority in personnel decisions, financial decisions, curriculum and instruction, resource allocation, establishing and monitoring the achievement of school improvement goals, and school operations.

(13) “Special school” means a school whose creation is authorized pursuant to Article VIII, Section V, Paragraph VII of the Constitution.

(14) “Start-up charter school” means a charter school that did not exist as a local school prior to becoming a charter school.

(15) “State board” means the State Board of Education.

(16) “State chartered special school” means a charter school created as a special school that is operating under the terms of a charter between the charter petitioner and the state board.

(17) “System charter school” means a school within a charter system. (Code 1981, § 20-2-2062, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2001, p. 148, § 22; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, §§ 7, 8/SB 35; Ga. L. 2007, p. 185, § 3/SB 39; Ga. L. 2013, p. 1061, § 24/HB 283; Ga. L. 2014, p. 866, § 20/SB 340; Ga. L. 2015, p. 103, § 3-1/HB 372.)

The 2013 amendment, effective July 1, 2013, in paragraph (2), inserted “or initiates” near the end of the first sentence, and added the third sentence.

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modern-

ize, and correct the Code, substituted “Code Section 20-2-2063.2” for “Code Section 20-2-2063.1” at the end of paragraph (3.1).

The 2015 amendment, effective July 1, 2015, added paragraph (4.1).

JUDICIAL DECISIONS

Start-up charter schools funding. — Pursuant to the plain language of O.C.G.A. § 20-2-2068.1(c), a school system and school board had no authority or discretion to deduct the system’s unfunded pension expense of \$ 38.6 million

from their calculation of local revenue to be distributed to start-up charter schools; the start-up charter schools were entitled to mandamus relief. *Atlanta Indep. Sch. Sys. v. Atlanta Neighborhood Charter Sch.*, 293 Ga. 629, 748 S.E.2d 884 (2013).

20-2-2064. Approval or denial of petition.

(a) A charter petitioner seeking to create a conversion charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial; and provided, further, that the local board shall not act upon a petition for a conversion charter school, including, but not limited to, a conversion charter for a high school cluster, until such petition:

(1)(A) Has been freely agreed to, by secret ballot, by a majority of the faculty and instructional staff members of the petitioning local school at a public meeting called with two weeks’ advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; and

(B) Has been freely agreed to, by secret ballot, by a majority of the parents or guardians of students enrolled in the petitioning local school present at a public meeting called with two weeks’

advance notice for the purpose of deciding whether to submit the petition to the local board for its approval; or

(2) If for a high school cluster, has been approved by a majority of the school councils in the high school cluster and has been freely agreed to, by secret ballot, by at least 60 percent of the combined vote of the faculty and instructional staff members of the high school cluster and the parents or guardians of students who reside in the attendance zone of such high school cluster present at a public meeting called with two weeks' advance notice for the purpose of deciding whether to submit the petition to the local board for its approval. Each school council within the high school cluster shall appoint two representatives to a committee that shall conduct the vote.

This subsection shall not apply to a system charter school petitioning to be a conversion charter school.

(b) A charter petitioner seeking to create a start-up charter school must submit a petition to the local board of the local school system in which the proposed charter school will be located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension. A denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(c) A system charter school's school council or governing council, as applicable, may petition to become a conversion charter school. The petition shall be submitted to the local board of the charter system in which the school is located. The local board must by a majority vote approve or deny a petition no later than 90 days after its submission unless the petitioner requests an extension; provided, however, that a denial of a petition by a local board shall not preclude the submission to the local board of a revised petition that addresses deficiencies cited in the denial.

(d) A local board shall approve a petition that complies with the rules, regulations, policies, and procedures promulgated in accordance with Code Section 20-2-2063 and the provisions of this title and is in the public interest. If a local board denies a petition, it must within 60 days specifically state the reasons for the denial, list all deficiencies with respect to Code Section 20-2-2063, and provide a written statement of the denial to the charter petitioner and the state board.

(e) The state board or the Charter Advisory Committee, if directed by the state board to do so, may mediate between the local board and a charter petitioner whose petition was denied to assist in resolving issues which led to denial of the petition by the local board. (Code 1981,

§ 20-2-2064, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2000, p. 618, § 74; Ga. L. 2002, p. 388, § 1; Ga. L. 2004, p. 107, § 19B; Ga. L. 2007, p. 185, § 6/SB 39; Ga. L. 2010, p. 551, § 1/SB 457; Ga. L. 2013, p. 1061, § 26/HB 283.)

The 2013 amendment, effective July 1, 2013, substituted “90 days” for “60 days” in the second sentence of subsections (a) and (b) and in the third sentence of subsection (c).

20-2-2065. Waiver of provisions of this title; requirements for operating; control and management.

(a) Except as provided in this article or in a charter, a charter school, or for charter systems, each school within the system, shall not be subject to the provisions of this title or any state or local rule, regulation, policy, or procedure relating to schools within an applicable school system regardless of whether such rule, regulation, policy, or procedure is established by the local board, the state board, or the Department of Education; provided, however, that the state board may establish rules, regulations, policies, or procedures consistent with this article relating to charter schools. A waiver granted pursuant to this Code section for a charter system shall apply to each system charter school within the system. In exchange for such a waiver, the charter school agrees to meet or exceed the performance based goals included in the charter and approved by the local board or, for the charter system, the system agrees to meet or exceed the system-wide performance based goals included in the charter and approved by the state board, including but not limited to raising student achievement. For a charter system, the charter shall delineate the performance based goals that the system and each school will be expected to meet as well as the criteria by which a system charter may be revoked in addition to those contained in Code Section 20-2-2068.

(b) In determining whether to approve a charter petition or renew an existing charter, the local board and state board shall ensure that a charter school, or for charter systems, each school within the system, shall be:

(1) A public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a charter school’s nonprofit status shall not prevent the school from contracting for the services of a for profit entity and that nothing in this Code section shall preclude the use of computer and Internet based instruction for students in a virtual or remote setting;

(2) Subject to the control and management of the local board of the local school system in which the charter school is located, as provided in the charter and in a manner consistent with the Constitution, if a local charter school;

(3) Subject to the supervision of the state board, as provided in the charter and in a manner consistent with the Constitution, if a state chartered special school;

(4) Organized and operated as a nonprofit corporation under the laws of this state; provided, however, that this paragraph shall not apply to any charter petitioner that is a local school, local school system, or state or local public entity;

(5) Subject to all federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; and the prevention of unlawful conduct; provided, however, that if:

(A) A facility used for a charter school is owned or operated by any state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity that owns or operates such facility; or

(B) A facility used for a charter school is owned by a local educational agency and operated utilizing standards of a state agency or entity, and such facility or equipment purchased or used by the facility meets the safety standards of the state agency or entity with respect to structural soundness and sufficient maintenance,

the facility or equipment or both shall be deemed to meet the safety requirements of this paragraph; provided, further, that in no event shall the state agency or entity or local educational agency owner or operator of a charter school with such facility or equipment be disqualified from eligibility for state grants or for federal grants awarded pursuant to state regulations due to such facility or equipment;

(6) Subject to all laws relating to unlawful conduct in or near a public school;

(7) Subject to an annual financial audit conducted by the state auditor or, if specified in the charter, by an independent certified public accountant licensed in this state; provided, however, that a separate audit shall not be required for a charter school if the charter school is included in the local school system audit conducted by the state auditor pursuant to Code Section 50-6-6;

(8) Subject to the provisions of Part 3 of Article 2 of Chapter 14 of this title, and such provisions shall apply with respect to charter schools whose charters are granted or renewed on or after July 1, 2000;

(9) Subject to all reporting requirements of Code Section 20-2-160, subsection (e) of Code Section 20-2-161, Code Section 20-2-320, and Code Section 20-2-740;

(10) Subject to the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133;

(11) Subject to the provisions of Code Section 20-2-1050 requiring a brief period of quiet reflection;

(12) Subject to the provisions of Code Section 20-2-210 relating to annual performance evaluations;

(13) Subject to the provisions of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; and

(14) Subject to the provisions of subsection (c) of Code Section 20-2-327 relating to individual graduation plans. (Code 1981, § 20-2-2065, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2000, p. 618, § 75; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 12/SB 35; Ga. L. 2006, p. 488, § 1/SB 610; Ga. L. 2007, p. 185, § 8/SB 39; Ga. L. 2010, p. 237, § 1G/HB 1079; Ga. L. 2011, p. 635, § 9/HB 186; Ga. L. 2013, p. 1061, § 27/HB 283; Ga. L. 2015, p. 1376, § 40/HB 502.)

The 2013 amendment, effective July 1, 2013, in paragraph (b)(5), added “provided, however, that if:” at the end, added subparagraphs (5)(A) and (5)(B), and added the ending undesignated paragraph; and added the proviso at the end of paragraph (b)(7).

The 2015 amendment, effective July 1, 2015, added paragraph (b)(12) and redesignated former paragraphs (b)(12) and (b)(13) as present paragraphs (b)(13) and (b)(14), respectively.

20-2-2066. Admission, enrollment, and withdrawal of students.

(a) A local charter school shall enroll students in the following manner:

(1)(A) A start-up charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. Except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school’s charter, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a start-up charter school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the start-up charter school;

(ii) A sibling of a student enrolled in another local school designated in the charter;

(iii) A student whose parent or guardian is a member of the governing board of the start-up charter school or is a full-time teacher, professional, or other employee at the start-up charter school;

(iv) Students matriculating from a local school designated in the charter; and

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school.

(B) A conversion charter school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter. If the number of applying students who reside in the attendance zone does not exceed the capacity as specified in the charter, additional students shall be enrolled based on a random selection process, except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school's charter; provided, however, that a conversion charter school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

(i) A sibling of a student enrolled in the conversion charter school or in any school in the high school cluster;

(ii) A student whose parent or guardian is a member of the governing board of the conversion charter school or is a full-time teacher, professional, or other employee at the conversion charter school;

(iii) Students who were enrolled in the local school prior to its becoming a conversion charter school;

(iv) Students who reside in the attendance zone specified in the charter; and

(v) Children who matriculate from a pre-kindergarten program which is associated with the school, including, but not limited to, programs which share common facilities or campuses

with the school or programs which have established a partnership or cooperative efforts with the school; and

(2) A student who resides outside the school system in which the local charter school is located may not enroll in that local charter school except pursuant to a contractual agreement between the local boards of the school system in which the student resides and the school system in which the local charter school is located. Unless otherwise provided in such contractual agreement, a local charter school may give enrollment preference to a sibling of a nonresident student currently enrolled in the local charter school.

(b) A state chartered special school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds the capacity of a program, class, grade level, or building. The period of time during which an application for enrollment may be submitted shall be specified in the charter. Except for educationally disadvantaged students who may be provided an increased chance of admission through a weighted lottery if permitted by the school's charter, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a state chartered special school may give enrollment preference to applicants in any one or more of the following categories in the order of priority specified in the charter:

(1) A sibling of a student enrolled in the state chartered special school;

(2) A sibling of a student enrolled in another local school designated in the charter;

(3) A student whose parent or guardian is a member of the governing board of the state chartered special school or is a full-time teacher, professional, or other employee at the state chartered special school;

(4) Students matriculating from a local school designated in the charter; and

(5) Children who matriculate from a pre-kindergarten program which is associated with the state chartered special school, including, but not limited to, programs which share common facilities or campuses with the school or programs which have established a partnership or cooperative efforts with the school.

(b.1) A charter system shall enroll students in its system charter schools per the terms of the charter and in accordance with state board rules.

(c) A charter school shall not discriminate on any basis that would be illegal if used by a school system.

(d) A student may withdraw without penalty from a charter school at any time and enroll in a local school in the school system in which such student resides as may be provided for by the policies of the local board. A student who is suspended or expelled from a charter school as a result of a disciplinary action taken by a charter school shall be entitled to enroll in a local school within the local school system in which the student resides, if, under the disciplinary policy of the local school system, such student would not have been subject to suspension or expulsion for the conduct which gave rise to the suspension or expulsion. In such instances, the local board shall not be required to independently verify the nature or occurrence of the applicable conduct or any evidence relating thereto. (Code 1981, § 20-2-2066, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 13/SB 35; Ga. L. 2007, p. 185, § 9/SB 39; Ga. L. 2013, p. 1061, § 28/HB 283; Ga. L. 2015, p. 103, § 3-2/HB 372.)

The 2013 amendment, effective July 1, 2013, deleted “and” at the end of division (a)(1)(A)(iii); added “and” at the end of division (a)(1)(A)(iv); added division (a)(1)(A)(v); deleted “and” at the end of division (a)(1)(B)(iii); and added division (a)(1)(B)(v).

The 2015 amendment note, effective July 1, 2015, rewrote paragraph (a)(1); and substituted the present provisions of subsection (b) for the former provisions, which read: “A state chartered special school shall enroll any student who resides in the attendance zone specified in the charter and who submits a timely application as specified in the charter unless the number of applications exceeds

the capacity of a program, class, grade level, or building. The period of time during which an application for enrollment may be submitted shall be specified in the charter. In such case, all such applicants shall have an equal chance of being admitted through a random selection process unless otherwise prohibited by law; provided, however, that a state chartered special school may give enrollment preference to a child of a full-time teacher, professional, or other employee of the state chartered special school as provided for in subsection (b) of Code Section 20-2-293 or to a sibling of a student currently enrolled in the state chartered special school.”

20-2-2067.1. Amendment of terms of charter for charter school; initial term of charter; annual report.

(a) The terms of a charter for a local charter school may be amended during the term of the charter upon the approval of the local board, the state board, and the charter school. The terms of a charter for a state chartered special school may be amended during the term of the charter upon the approval of the state board and the charter school. The terms of a charter for a charter system may be amended during the term of the charter upon approval of the state board and the local board.

(b) The initial term of a charter, except for a charter system, shall be for a minimum of five years, unless the petitioner shall request a

shorter period of time, and shall not exceed ten years. The local board and the state board, in accordance with Code Section 20-2-2064.1, may renew a local charter, upon the request of the charter school, for the period of time specified in the request, not to exceed ten years. The state board may renew a state chartered special school, upon the request of the school, for the period of time specified in the request, not to exceed ten years. The initial term of a charter for a charter system shall not exceed five years. The state board may renew the charter of a charter system, upon the request of the local board, for the period of time specified in the request, not to exceed ten years.

(c) Each start-up and conversion charter school and each charter system shall submit an annual report outlining the previous year's progress to the authorizing local board or state board, as appropriate; to parents and guardians of students enrolled in the school, or, for a charter system, to parents and guardians of students enrolled in school within the local school system; and to the Department of Education no later than November 1 of each year. The report submitted by a charter system shall include, but not limited to, data on all of its system charter schools. The report shall contain, but is not limited to:

(1) An indication of progress toward the goals as included in the charter;

(2) Academic data for the previous year, including state academic accountability data, such as standardized test scores;

(3) Unaudited financial statements for the fiscal year ending on June 30, provided that audited statements will be forwarded to the local board and state board upon completion;

(4) Updated contact information for the school and the administrator, and for charter systems, each system charter school and its respective administrator;

(5) Proof of current nonprofit status, if applicable;

(6) Any other supplemental information that the charter school or charter system chooses to include or that the state board requests that demonstrates that school or system's success; and

(7) For charter systems:

(A) A description of:

(i) The actual authority exercised by governing councils with regard to each of the components of school level governance listed in paragraph (12.1) of Code Section 20-2-2062;

(ii) Training received by governing councils and school administrators; and

(iii) Steps, if any, the charter system plans to take to increase school level governance in the future;

(B) An itemization of initiatives being supported with the additional funding received by the charter system pursuant to Code Section 20-2-165.1 and how those funds have promoted school level governance or improved student achievement;

(C) A comparison of actual performance versus the performance based goals for the charter system set forth in the charter pursuant to Code Section 20-2-2065;

(D) The name and contact information of an employee of the charter system that can facilitate communications between the Office of Charter School Compliance and the chairpersons of the governing councils in the charter system; and

(E) An on-site external evaluation of the charter system at least once every five years, as determined by the state board. (Code 1981, § 20-2-2067.1, enacted by Ga. L. 2002, p. 388, § 1; Ga. L. 2005, p. 798, § 14/SB 35; Ga. L. 2007, p. 185, § 10/SB 39; Ga. L. 2013, p. 1061, § 29/HB 283; Ga. L. 2015, p. 1376, § 41/HB 502.)

The 2013 amendment, effective July 1, 2013, deleted “and adequate yearly progress data” at the end of paragraph (c)(2); and substituted the present provisions of paragraph (c)(7) for the former provisions, which read: “For charter systems, an on-site external evaluation of the

system at least once every five years, as determined by the state board.”

The 2015 amendment, effective July 1, 2015, in subsection (c), substituted “November 1” for “October 1” at the end of the first sentence.

20-2-2068. (For effective date, see note) Termination of a charter.

(a) The state board may terminate a charter under the following circumstances:

(1)(A) If a majority of the parents or guardians of students enrolled at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks’ advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void; or

(B) If a majority of the faculty and instructional staff employed at the charter school vote by a majority vote to request the termination of its charter at a public meeting called with two weeks’ advance notice and for the purpose of deciding whether to request the state board to declare the charter null and void.

This paragraph shall not apply to system charter schools;

(2) If, after providing reasonable notice to the charter school or charter system, as applicable, and an opportunity for a hearing, the state board finds through its own audit or through other means:

(A) A failure to comply with any recommendation or direction of the state board with respect to Code Section 20-14-41;

(B) A failure to adhere to any material term of the charter, including but not limited to the performance goals set forth in the charter;

(C) For a charter system, a failure to promote school level governance as required by the charter;

(D) A failure to meet generally accepted standards of fiscal management;

(E) A violation of applicable federal, state, or local laws or court orders;

(F) The existence of competent substantial evidence that the continued operation of the charter school or charter system would be contrary to the best interests of the students or the community; or

(G) A failure to comply with any provision of Code Section 20-2-2065; or

(3) Upon the written request of a local board for termination of a charter for a local charter school located within its school system if, prior to making such request, the local board provided reasonable notice to the charter school and an opportunity for a hearing, and determined the existence of any of the grounds described in paragraph (2) of this Code section.

(b) For a system charter school, if the school council or governing council, as applicable, at such school within the charter system requests that:

(1) The system charter be terminated; or

(2) The system charter be amended with respect to such system charter school,

the state board, after providing reasonable notice to the charter system and the system charter school, shall conduct a hearing. Based on the findings of the hearing, the state board may enter into negotiations with the charter system to amend the charter to address the concerns of the requesting system charter school. If negotiations fail and the state board finds good cause, the state board shall be authorized to terminate the system charter or to amend the system charter with respect to the requesting system charter school; provided, however, that

the local board shall be authorized to terminate the system charter if it is unwilling to accept the amendments to such charter by the state board. The term “good cause” includes but is not limited to a local board’s failure to comply with its obligations and duties under the system charter, state board rules, or other applicable law, or other good cause as determined in the sole discretion of the state board. (Code 1981, § 20-2-2068, enacted by Ga. L. 1998, p. 1080, § 3; Ga. L. 1999, p. 81, § 20; Ga. L. 2002, p. 388, § 1; Ga. L. 2007, p. 185, § 11/SB 39; Ga. L. 2008, p. 324, § 20/SB 455; Ga. L. 2013, p. 1061, § 30/HB 283; Ga. L. 2015, p. 92, § 5/SB 133.)

Delayed effective date. — Ga. L. 2015, p. 92, § 6/SB 133, provides that the 2015 amendment becomes effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools. This Code section, as set out above, does not reflect the amendment by that Act owing to the delayed effective date. If the amendment is approved, subparagraph (a)(2)(A) will read as follows: “(A) A failure to comply with any recommendation or direction of the state board with respect to any inter-

vention prescribed by the state board pursuant to the charter;”.

The 2013 amendment, effective July 1, 2013, added “through its own audit or through other means” at the end of paragraph (a)(2); added subparagraph (a)(2)(C); and redesignated former subparagraphs (a)(2)(C) through (a)(2)(F) as present subparagraphs (a)(2)(D) through (a)(2)(G), respectively.

The 2015 amendment, substituted “any intervention prescribed by the state board pursuant to the charter” for “Code Section 20-14-41” at the end of subparagraph (a)(2)(A). For effective date of this amendment, see the delayed effective date note.

20-2-2068.1. Charter school funding.

Law reviews. — For article, “Having it Both Ways: How Charter Schools Try to Obtain Funding of Public Schools and the

Autonomy of Private Schools,” see 63 Emory L. J. 303 (2013).

JUDICIAL DECISIONS

Deducting unfunded pension expenses from start-up charter schools prohibited. — Pursuant to the plain language of O.C.G.A. § 20-2-2068.1(c), a school system and school board had no authority or discretion to deduct the system’s unfunded pension expense of \$ 38.6

million from their calculation of local revenue to be distributed to start-up charter schools; the start-up charter schools were entitled to mandamus relief. *Atlanta Indep. Sch. Sys. v. Atlanta Neighborhood Charter Sch.*, 293 Ga. 629, 748 S.E.2d 884 (2013).

20-2-2068.2. Facilities fund for charter schools; purposes for which funds may be used; upkeep of charter school property; availability of unused facilities.

(a) From moneys specifically appropriated for such purpose, the state board shall create a facilities fund for local charter schools, state

chartered special schools, and state charter schools as defined in Code Section 20-2-2081 for the purpose of establishing a per pupil, need based facilities aid program.

(b) A charter school or state charter school may receive moneys from the facilities fund if the charter school or state charter school has received final approval from the State Charter Schools Commission or from the state board for operation during that fiscal year.

(c) A charter school's or state charter school's governing body may use moneys from the facilities fund for the following purposes:

- (1) Purchase of real property;
- (2) Construction of school facilities, including initial and additional equipment and furnishings;
- (3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;
- (4) Purchase of vehicles to transport students to and from the charter school or state charter school; and
- (5) Renovation, repair, and maintenance of school facilities that the school owns or is purchasing through a lease-purchase or long-term lease of three years or longer.

(d) The Department of Education shall specify procedures for submitting and approving requests for funding under this Code section and for documenting expenditures.

(e) Local boards are required to renovate, repair, and maintain the school facilities of charter schools in the district to the same extent as other public schools in the district if the local board owns the charter school facility, unless otherwise agreed upon by the petitioner and the local board in the charter.

(f)(1) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the local charter school and the local board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the local board in the event the local charter school terminates operations.

(2) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state chartered special school and the state board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the state board in the event the state chartered special school terminates operations.

(3) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state charter school and the State Charter Schools Commission shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the State Charter Schools Commission in the event the state charter school terminates operations.

(g) The reversion of property in accordance with subsection (f) of this Code section is subject to the complete satisfaction of all lawful liens or encumbrances.

(h) Each local board of education shall make its unused facilities available to local charter schools. The terms of the use of such a facility by the charter school shall be subject to negotiation between the board and the local charter school and shall be memorialized as a separate agreement. A local charter school that is allowed to use such a facility under such an agreement shall not sell or dispose of any interest in such property without the written permission of the local board. A local charter school may not be charged a rental or leasing fee for the existing facility or for property normally used by the public school which became the local charter school. A local charter school that receives property from a local board may not sell or dispose of such property without the written permission of the local board.

(i) No municipality, county, or other local political subdivision of this state may require the nonprofit corporation that holds the charter for a charter school that has passed the Department of Education facility inspection and holds a valid certificate of occupancy to obtain any other licensure to operate the school, including, but not limited to, a business license, professional license, or occupational tax certificate; provided, however, that any for profit vendor of the charter school shall be subject to any applicable local requirements relating to doing business in this state. Charter schools shall be subject to all applicable zoning, planning, and building permitting requirements when constructing or renovating a facility. (Code 1981, § 20-2-2068.2, enacted by Ga. L. 2004, p. 107, § 19C; Ga. L. 2005, p. 798, § 16/SB 35; Ga. L. 2009, p. 727, § 1/HB 555; Ga. L. 2013, p. 1061, § 31/HB 283; Ga. L. 2015, p. 103, § 1-2/HB 372.)

The 2013 amendment, effective July 1, 2013, substituted “state charter” for “commission charter” and “State Charter Schools Commission” for “Georgia Charter Schools Commission” throughout this Code section; and substituted “three years” for “five years” near the end of paragraph (c)(5).

The 2015 amendment, effective July 1, 2015, added subsection (i).

Editor’s notes. — Ga. L. 2015, p. 103, § 1-1/HB 372, not codified by the General Assembly, provides: “This part shall be known and may be cited as the ‘Utopian Academy for the Arts Act.’”

20-2-2071. Validity of charters in effect on July 1, 1998.

Editor's notes. — Code Section 20-2-255, referred to in this Code section, was repealed by Ga. L. 1998, p. 1080, § 1, effective July 1, 1998.

20-2-2072. Training for board members.

The members of the governing board of the nonprofit organization of each charter school shall participate in initial training for boards of newly approved charter schools and annual training thereafter, conducted or approved by the state board. The state board shall provide for or approve such initial and annual training. For charter schools that are college and career academies, as defined in subsection (b) of Code Section 20-4-37, the state board shall provide or approve such training in conjunction with the Technical College System of Georgia. The training shall include, but not be limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations. (Code 1981, § 20-2-2072, enacted by Ga. L. 2014, p. 164, § 1/HB 405.)

Effective date. — This Code section became effective July 1, 2014.

ARTICLE 31A**STATE CHARTER SCHOOLS**

Effective date. — This article became effective January 1, 2013.

Editor's notes. — Ga. L. 2012, p. 1298, § 3/HB 797, not codified by the General Assembly, provided that this article shall be repealed effective January 1, 2013, and that a new article shall be enacted, only if a Constitutional amendment expressly authorizing the General Assembly to create state charter schools as special schools was ratified at the November 2012, general election. Ga. L. 2012, p. 1364/HR 1162 was ratified at the election held on November 6, 2012.

Ga. L. 2012, p. 1298, § 1/HB 797, repealed the Code sections formerly codified at this article and enacted the current article. The former article consisted of Code Sections 20-2-2080 through 20-2-2092, relating to the Georgia Charter Schools Commission, and was based on Code 1981, §§ 20-2-2080—20-2-2092, enacted by Ga. L. 2008, p. 603, § 1/HB 881; Ga. L. 2009, p. 8, § 20/SB 46.

Law reviews. — For article on the 2012 enactment of this article, see 29 Ga. St. U.L. Rev. 1 (2012).

JUDICIAL DECISIONS

Editor's notes. — In light of the similarity of the statutory provisions, decisions under former Article 31A, Code Section 20-2-2080 et seq., which was subsequently repealed but was succeeded

by provisions in this article, are included in the annotations for this Code section.

Constitutionality. — Georgia Charter Schools Commission Act, O.C.G.A. § 20-2-2081 et seq., violated the special

schools provision of Ga. Const. 1983, Art. VIII, Sec. V, Para. VII(a) by authorizing a state commission to establish competing state-created general K-12 schools under the guise of being special schools. The special schools authorized by the constitution were not competitors with locally controlled schools in regard to the education of general K-12 students; rather, the

constitutionally significant matters that made a school “special” were directly related to the school itself, the school’s student body and the school’s curriculum. *Gwinnett County Sch. Dist. v. Cox*, 289 Ga. 265, 710 S.E.2d 773 (2011) (decided under former O.C.G.A. § 20-2-2080 et seq.)

OPINIONS OF THE ATTORNEY GENERAL

Editor’s notes. — In light of the similarity of the statutory provisions, opinions under former Article 31A, Code Section 20-2-2080 et seq., which was subsequently repealed but was succeeded by provisions in this article, are included in the annotations for this Code section.

Membership in the Teachers Retirement System. — Unless and until the General Assembly adopts clarifying

legislation, it is within the sound discretion of the Teachers Retirement System Board of Trustees to determine whether teachers who are employed not less than half-time by commission charter schools must be members of the Teachers Retirement System. 2010 Op. Att’y Gen. No. 2010-5 (decided under former O.C.G.A. § 20-2-2080 et seq.).

20-2-2080. Legislative findings and intent.

(a) The General Assembly finds that:

(1) State charter schools can serve as a complement to the educational opportunities provided by local boards of education in the state’s system of public education; and

(2) State charter schools do not supplant public schools operated by local boards of education but provide options to enhance public educational opportunities.

(b) It is the intent of the General Assembly that there be established a state-level commission under the authority of the State Board of Education whose primary focus is the development and support of state charter schools in order to better meet the growing and diverse needs of students in this state and to further ensure that state charter schools of the highest academic quality are approved and supported throughout the state in an efficient manner. (Code 1981, § 20-2-2080, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

Law reviews. — For article, “Education: Education’s Elusive Future, Storied

Past, and the Fundamental Inequities Between,” see 46 Ga. L. Rev. 557 (2012).

20-2-2081. Definitions.

As used in this article, the term:

(1) “Attendance zone” means all or a portion of a local school system, one or more local school systems or portions thereof, or all local school systems in this state.

(2) “Commission” means the State Charter Schools Commission established pursuant to Code Section 20-2-2082.

(3) “Department” means the state Department of Education.

(4) “Governing board” means the governing board of the nonprofit organization which is the charter petitioner for a state charter school and which is the same as the governing board of the state charter school which is involved in school-level governance of the state charter school.

(5) “State charter school” means a school authorized by the commission pursuant to this article whose creation is authorized as a special school pursuant to Article VIII, Section V, Paragraph VII of the Constitution. A state charter school shall be a public school.

The definitions set forth in Code Section 20-2-2062 shall be applicable to this article. (Code 1981, § 20-2-2081, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2082. State Charter Schools Commission; members; operations.

(a) The State Charter Schools Commission is established as a state-level authorizing entity working in collaboration with the Department of Education under the authority of the State Board of Education. Start-up funds necessary to establish and operate the commission may be received by the State Board of Education in addition to such other funds as may be appropriated by the General Assembly. The department shall assist in securing federal and other institutional grant funds to establish the commission.

(b) The commission shall be appointed by the State Board of Education and shall be composed of a total of seven members and made up of three appointees recommended by the Governor, two appointees recommended by the President of the Senate, and two appointees recommended by the Speaker of the House of Representatives. The Governor, the President of the Senate, and the Speaker of the House of Representatives shall each recommend a list of no fewer than two nominees for each appointment to the commission. The appointments shall be made as soon as feasible but no later than the first regular meeting of the State Board of Education in February, 2013. Each member shall serve a term of two years; provided, however, that, for the purpose of providing staggered terms, of the initial appointments, three members shall be appointed to one-year terms and four members shall be

appointed to two-year terms as determined by the State Board of Education. Thereafter, each appointee shall serve a two-year term unless the State Board of Education, after review and upon recommendation by the initial recommending authority, extends the appointment. If a vacancy occurs on the commission, it shall be filled by the State Board of Education from a recommendation by the appropriate authority according to the procedure set forth in this subsection. The members of the commission shall annually vote to appoint a chairperson and a vice chairperson from among its membership. Each member of the commission shall hold a bachelor's degree or higher, and the commission should include a group of diverse individuals representative of Georgia's school population, to the extent possible, with respect to race, sex, and geography who have experience in finance, administration, law, and education.

(c) The commission is encouraged to convene its first meeting no later than March 1, 2013, and thereafter shall meet at least bimonthly at the call of the chairperson or upon the request of four members of the commission. Four members of the commission shall constitute a quorum.

(d) The commission shall determine the manner in which it reviews state charter school petitions and may, in its discretion, use existing department personnel to conduct such review.

(e) The members of the commission shall not be compensated for their services on the commission but may be reimbursed for per diem and travel expenses in the same manner as provided for in Code Section 45-7-21.

(f) No commission member shall solicit or accept any gift, favor, loan, contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing that commission member in the discharge of his or her duties as a commission member. (Code 1981, § 20-2-2082, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2083. Powers and duties of commission.

(a) The commission shall have the power to:

(1) Approve or deny petitions for state charter schools and renew, nonrenew, or terminate state charter school petitions in accordance with rules and regulations established pursuant to this article. At its discretion, the commission may preliminarily approve a petition for a state charter school before the petitioner has secured space, equipment, or personnel, if the petitioner indicates such preliminary

approval is necessary for it to raise working capital. The State Board of Education shall review and may overrule the approval or renewal of a state charter school by the commission within 60 days of such decision by the commission upon a majority vote of the members of the state board; and

(2) Conduct facility and curriculum reviews of state charter schools.

(b) The commission shall have the following duties:

(1) Review petitions for state charter schools and assist in the establishment of state charter schools throughout this state. The commission shall ensure that all charters for state charter schools are consistent with state education goals;

(2) Develop, promote, and disseminate best practices for state charter schools in order to ensure that high-quality schools are developed and encouraged. At a minimum, the best practices shall encourage the development and replication of academically and financially proven state charter school programs;

(3) Develop, promote, and require high standards of accountability for state charter schools. The commission shall ensure that each state charter school participates in the state's education accountability system. If a state charter school falls short of performance measures included in the approved charter, the commission shall report such shortcomings to the Department of Education;

(4) Monitor and annually review and evaluate the academic and financial performance, including revenues and expenditures, of state charter schools and hold the schools accountable for their performance pursuant to the charter and to the provisions of this article. The commission shall also review the citizenship and immigration status of each individual that works at a state charter school and aggregate the information by school on an annual basis. The commission's duties to monitor the state charter school shall not constitute the basis for a private cause of action;

(5) Direct state charter schools and persons seeking to establish state charter schools to sources of private funding and support;

(6) Actively seek, with the assistance of the department, supplemental revenue from federal grant funds, institutional grant funds, and philanthropic organizations. The commission may receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this article;

(7) Review and recommend to the General Assembly any necessary revisions to statutory requirements regarding standards and accountability for state charter schools;

(8) Act as liaison for state charter schools in cooperating with local boards of education that may choose to allow state charter schools to utilize excess space within school facilities;

(9) Encourage collaboration with municipalities, counties, consolidated governments, universities or colleges of the board of regents, technical institutions of the Technical College System of Georgia, and regional educational service agencies;

(10) Meet the needs of state charter schools and local school systems by uniformly administering high-quality state charter schools, thereby removing administrative burdens from the local school systems;

(11) Assist state charter schools in negotiating and contracting with local boards of education that choose to provide certain administrative or transportation services to the state charter schools on a contractual basis; and

(12) Provide for or approve initial training for boards of newly approved state charter schools and annual training thereafter, as determined by the commission, for members of state charter school governing boards. For charter schools that are college and career academies, as defined in subsection (b) of Code Section 20-4-37, the commission shall provide or approve such training in conjunction with the Technical College System of Georgia. The training shall include, but not be limited to, best practices on school governance, the constitutional and statutory requirements relating to public records and meetings, and the requirements of applicable statutes and rules and regulations.

(c)(1) The commission shall establish rules and regulations requiring each state charter school to provide adequate notice of its enrollment procedures, including any provision for the use of a random selection process where all applicants have an equal chance of being admitted in the event that the number of applications to enroll in the school exceeds the capacity of the program, grade, or school.

(2) The commission shall provide adequate notice to local boards of education and to the public regarding meetings to be held by the commission. Such notice shall include the charter petitions to be discussed and acted upon. Such notice shall be provided in accordance with Chapter 14 of Title 50, relating to open and public meetings. (Code 1981, § 20-2-2083, enacted by Ga. L. 2012, p. 1298, § 1/HB 797; Ga. L. 2014, p. 164, § 2/HB 405.)

The 2014 amendment, effective July 1, 2014, in paragraph (b)(12), in the first sentence, inserted “or approve initial training for boards of newly approved

state charter schools and” and inserted “thereafter”, and added the second sentence.

20-2-2084. Petition for charter schools; requirements of school; governing board membership; annual training.

(a) Petitions submitted to the commission shall be subject to rules and regulations established pursuant to this article.

(b) The commission shall be authorized to approve a petition for a state charter school that meets the following requirements:

(1) Has a state-wide attendance zone; or

(2)(A) Has a defined attendance zone; and

(B) Demonstrates that it has special characteristics, such as a special population, a special curriculum, or some other feature or features which enhance educational opportunities, which may include the demonstration of a need to enroll students across multiple communities or an alternative delivery system; provided, however, that the petitioner shall demonstrate a reasonable justification for any proposed special curriculum that has a narrow or limited focus.

(c)(1) For petitions for state charter schools with a state-wide attendance zone, the petitioner shall submit such petition to the commission and concurrently to the local board of education in which the school is proposed to be located for information purposes; provided, however, that this shall not apply to a proposed state charter school which will solely provide virtual instruction.

(2) For petitions for state charter schools with a defined attendance zone, the petitioner shall concurrently submit such petition to the commission, to the local board of education in which the school is proposed to be located, and to each local school system from which the proposed school plans to enroll students. The commission shall not act on a petition unless the local board of education in which the school is proposed to be located denies the petition; provided, however, that such local board shall approve or deny the petition no later than 90 days after its submission, as required pursuant to subsection (b) of Code Section 20-2-2064, unless the petitioner requested an extension. Failure to approve or deny such petition by such local board, in violation of Code Section 20-2-2064, shall be deemed a denial for purposes of this paragraph. A local board that has denied a petition for a state charter school shall be permitted to present to the commission in writing or in person the reasons for denial and the deficiencies in such petition resulting in such denial.

(3) The commission may take into consideration any support or opposition by the local board of education or local boards of education on the start-up charter school petition when it votes to approve or deny a corresponding state charter school petition.

(d) A state charter school shall:

(1) Seek highly qualified, properly trained teachers and other qualified personnel for such schools; provided, however, that such schools shall give preference to hiring an individual who is a citizen or national of the United States over another individual who is not a citizen or national of the United States if the two individuals are equally qualified, unless a teacher is a foreign exchange teacher; provided, however, that prior to hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b, the school shall receive approval by the commission and demonstrate that qualified teachers and other personnel were sought but not available in such area which warrants hiring an individual other than a citizen or national of the United States or a protected individual as defined in 8 U.S.C. Section 1324b, unless a teacher is a foreign exchange teacher; provided, further, that the commission and the state charter school shall not construe this paragraph in a manner in violation of 8 U.S.C. Section 1324b or other provisions of law; and

(2) Give preference in contracting and purchasing of services and materials to businesses incorporated under the laws of this state or qualified to do business within this state and having a regularly maintained and established place of business within this state, so long as such businesses are otherwise similarly situated and qualified as compared to a business from out of state.

(e)(1) The members of the governing board for the state charter school shall meet the following qualifications:

(A) Must be a United States citizen;

(B) Must be a resident of Georgia; and

(C) Must not be an employee of the state charter school.

(2) No member of the governing board of the state charter school shall:

(A) Act in his or her official capacity in any matter where he or she, his or her immediate family member, or a business organization in which he or she has an interest has a material financial interest that would reasonably be expected to impair his or her objectivity or independence of judgment;

(B) Solicit or accept or knowingly allow his or her immediate family member or a business organization in which he or she has

an interest to solicit or accept any gift, favor, loan, political contribution, service, promise of future employment, or other thing of value based upon an understanding that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered for the purpose of influencing that board member in the discharge of his or her duties as a board member;

(C) Use, or knowingly allow to be used, his or her position or any information not generally available to the members of the public which he or she receives or acquires in the course of and by reason of his or her position for the purpose of securing financial gain for himself or herself, his or her immediate family member, or any business organization with which he or she is associated; or

(D) Be an officer or serve on the board of directors of any organization that sells goods or services to that state charter school.

As used in this paragraph, the term “immediate family member” means a spouse, child, sibling, or parent or the spouse of a child, sibling, or parent.

(f) The members of the governing board of each state charter school shall participate in initial training for boards of newly approved state charter schools and annual training thereafter conducted or approved by the commission pursuant to paragraph (12) of subsection (b) of Code Section 20-2-2083.

(g) An individual that works at a state charter school or an individual that has administrative oversight at a state charter school shall not serve on the board of directors of an organization that sells goods or services to such state charter school. (Code 1981, § 20-2-2084, enacted by Ga. L. 2012, p. 1298, § 1/HB 797; Ga. L. 2014, p. 164, § 3/HB 405; Ga. L. 2015, p. 1376, § 42/HB 502.)

The 2014 amendment, effective July 1, 2014, in subsection (f), inserted “initial training for boards of newly approved state charter schools and”, inserted “thereafter”, and inserted “or approved”.

The 2015 amendment, effective July 1, 2015, substituted “90 days” for “60 days” in the second sentence of paragraph (c)(2).

20-2-2085. Petitions by existing charter schools.

A petition may be submitted pursuant to this Code section by an existing charter school approved by a local board of education or the State Board of Education provided that the obligations of its charter with the local board of education or State Board of Education will expire prior to entering into a new charter with the commission. Upon the existing charter school’s request, a local board of education or the State Board of Education in the case of a state chartered special school may

agree to rescind or waive the obligations of a current charter to allow a petition to be submitted by an existing charter school pursuant to this Code section. An existing charter school that is established as a state charter school pursuant to this Code section shall be allowed to continue the use of all facilities, equipment, and other assets it used prior to the expiration or rescission of its charter with a local board of education; provided, however, that the local board shall be authorized to charge or continue to charge a reasonable fee for use of the facilities. (Code 1981, § 20-2-2085, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2086. Information to parents.

The commission shall provide maximum access to information regarding state charter schools to all parents in this state. It shall maintain information systems, including, but not limited to, a user-friendly Internet website, that will provide information and data necessary for parents to make informed decisions. At a minimum, the commission shall provide parents with information on its accountability standards, links to state charter schools throughout this state, and public education programs concerning state charter schools. (Code 1981, § 20-2-2086, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2087. Annual report of chairperson.

Each year, the chairperson of the commission shall appear before the State Board of Education and submit a report regarding the academic performance and fiscal responsibility of all state charter schools approved under this article. (Code 1981, § 20-2-2087, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2088. Debts of non-renewed or terminated charter schools.

If a charter for a state charter school is not renewed or is terminated, the state charter school shall be responsible for all debts of such school. Neither the state, the State Board of Education, or the commission shall be liable for any debts of the school in the event the charter is not renewed or is terminated. The local school system may not assume the debt from any contract for services made between the governing body of the state charter school and a third party, except for a debt for which the local school system has agreed upon in writing to assume responsibility. (Code 1981, § 20-2-2088, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2089. Funding for state charter schools.

(a)(1) The earnings for a student in a state charter school shall be equal to the earnings for any other student with similar student

characteristics in a state charter school, regardless of the local school system in which the student resides or the school system in which the state charter school is located, and, except as otherwise provided in paragraph (2) of this subsection, the department shall pay to each state charter school through appropriation of state funds an amount equal to the sum of:

(A)(i) QBE formula earnings and QBE grants earned by the state charter school based on the school's enrollment, school profile, and student characteristics. For purposes of this subparagraph, the term "QBE formula earnings" means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated in accordance with Code Section 20-2-164. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, and earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development, as determined by the department.

(ii) A proportional share of earned state categorical grants, non-QBE state grants, transportation grants, school nutrition grants, and all other state grants, except state equalization grants, as determined by the department;

(B) The average amount of the total revenues less federal revenues less state revenues other than equalization grants per full-time equivalent for the lowest five school systems ranked by assessed valuation per weighted full-time equivalent count, as determined by the department; and

(C) The state-wide average total capital revenue per full-time equivalent, as determined by the department.

(2) In the event that a state charter school offers virtual instruction:

(A) The amount of funds received pursuant to subparagraph (B) of paragraph (1) of this subsection shall be equal to two-thirds of such calculated amount; provided, however, that this two-thirds amount may be increased by any amount up to the originally calculated amount in the discretion of the commission if relevant factors warrant such increase; and

(B) The commission may reduce the amount of funds received pursuant to subparagraph (C) of paragraph (1) of this subsection in

proportion to the amount of virtual instruction provided and based on factors that affect the cost of providing instruction.

(3) For purposes of this subsection, the terms:

(A) "Assessed valuation" is defined as 40 percent of the equalized adjusted property tax digest reduced by the amount calculated pursuant to subsection (g) of Code Section 20-2-164.

(B) "Assessed valuation per weighted full-time equivalent count" is defined as the assessed valuation for the most recent year available divided by the weighted full-time equivalent count for the year of the digest.

(b) The department may withhold up to 3 percent of the amount determined pursuant to subsection (a) of this Code section for each state charter school for use in administering the duties required pursuant to Code Section 20-2-2083; provided, however, that any amount withheld pursuant to this subsection shall be spent solely on expenses incurred by the commission in performing the duties required by this article.

(c) No deduction shall be made to any state funding which a local school system is otherwise authorized to receive pursuant to this chapter as a direct result or consequence of the enrollment in a state charter school of a specific student or students who reside in the geographical area of the local school system.

(d) For purposes of funding students enrolled in a state charter school in the first year of such school's operation or for the first year that an existing state charter school offers a new grade level and prior to the initial student count, the commission shall calculate and the department shall distribute the funding for the state charter school on the basis of its projected enrollment according to an enrollment counting procedure or projection method stipulated in the terms of the charter. No later than July 1 of each year, the commission shall notify the department and the Office of Planning and Budget of the funding estimates calculated pursuant to this subsection for any new state charter schools and for any new grade levels offered by existing state charter schools. After the initial student count during the first year of such state charter school's operation or newly offered grade level and in all years of operation thereafter, each state charter school's student enrollment shall be based on the actual enrollment in the current school year according to the most recent student count. Nothing in this Code section shall be construed to require the department to conduct more than two student counts per year.

(e) Funding for state charter schools pursuant to this Code section shall be subject to appropriations by the General Assembly and such

schools shall be treated consistently with all other public schools in this state, pursuant to the respective statutory funding formulas and grants. (Code 1981, § 20-2-2089, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2090. Collaborative efforts on matters related to authorization of state charter schools; administration.

The commission shall work in collaboration with the department on all matters related to authorizing state charter schools and shall be assigned to the department for administrative purposes only, as prescribed in Code Section 50-4-3. For administrative purposes, including data reporting, student enrollment counting procedures, student achievement reporting, funding allocations, and related purposes as defined by the State Board of Education, each state charter school shall, consistent with department rules and regulations, be treated as a single local education agency. (Code 1981, § 20-2-2090, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2091. Rules and regulations for implementation of article.

The commission and the State Board of Education, as appropriate, shall adopt rules and regulations necessary to facilitate the implementation of this article. Except as otherwise provided in this article, any rules and regulations adopted by the State Board of Education pursuant to this article, to the extent practicable, shall be established in the same manner and subject to the same requirements as for state chartered special schools under Article 31 of this chapter. (Code 1981, § 20-2-2091, enacted by Ga. L. 2012, p. 1298, § 1/HB 797.)

20-2-2092. Authority to incorporate nonprofit corporation as public foundation; requirements; annual report.

(a) The commission shall have the power and authority to incorporate a nonprofit corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the commission in carrying out any of its powers and accomplishing any of its purposes. A nonprofit corporation created pursuant to this subsection shall be created pursuant to Chapter 3 of Title 14, the “Georgia Nonprofit Corporation Code,” and the Secretary of State shall be authorized to accept such filing.

(b) A nonprofit corporation created pursuant to this Code section shall be subject to the following provisions:

(1) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by such nonprofit corporation;

(2) Upon dissolution of such nonprofit corporation incorporated by the commission, any assets shall revert to the commission or to any successor to the commission or, failing such succession, to the State of Georgia;

(3) As used in this paragraph, the term "direct employee costs" means salary, benefits, and travel expenses. To avoid the appearance of undue influence on regulatory functions by donors, no donations to such nonprofit corporation from private sources shall be used for direct employee costs of the commission;

(4) Such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(5) The commission shall not be liable for the action or omission to act of such nonprofit corporation; provided, however, that such nonprofit corporation shall obtain and maintain errors and omissions liability coverage insurance in an amount not less than \$1 million; and

(6) No debts, bonds, notes, or other obligations incurred by such nonprofit corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of such nonprofit corporation constitute or result in the creation of an indebtedness of the state; provided, however, that such nonprofit corporation shall not have the power to incur long-term or short-term indebtedness in connection with its authority under this Code section but may incur short-term credit obligations. No holder or holders of such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state.

(c) Pursuant to this Code section, the commission may establish a nonprofit corporation to be designated as the State Charter Schools Foundation for the sole purpose of actively seeking supplemental revenue and in-kind goods, services, and property to promote state charter schools and any other purpose of the commission. Funds received by the foundation may be awarded through a competitive grant process administered by the commission.

(d) A nonprofit corporation created pursuant to this Code section shall make public and provide an annual report showing the identity of all donors and the amount each person or entity donated as well as all expenditures or other disposal of money or property donated. Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Education and the Senate Education and Youth Committee. Such nonprofit corporation shall also provide such persons with a copy of all corporate filings with the federal Internal Revenue

Service. (Code 1981, § 20-2-2092, enacted by Ga. L. 2015, p. 1069, § 1/SB 156.)

Effective date. — This Code section became effective July 1, 2015.

ARTICLE 32

HIGH SCHOOL ATHLETICS OVERVIEW COMMITTEE

Effective date. — This article became effective July 1, 2014.

Editor's notes. — The former article consisted of Code Sections 20-2-2100 through 20-2-2105, relating to the High School Athletics Overview Committee, was based on Code 1981, §§ 20-2-2100

through 20-2-2105, enacted by Ga. L. 2006, p. 878, § 1/HB 1316, and was repealed by Ga. L. 2006, p. 878, § 1/HB 1316, effective December 31, 2010.

Law reviews. — For annual survey on administrative law, see 66 Mercer L. Rev. 1 (2014).

20-2-2100. Creation of oversight committee to review operations of high school athletic associations.

(a) There is created as a joint committee of the General Assembly the High School Athletics Overview Committee to be composed of five members of the House of Representatives appointed by the Speaker of the House, one of whom shall be a member of the minority party; five members of the Senate appointed by the Lieutenant Governor, one of whom shall be a member of the minority party; the chairperson of the House Committee on Education or his or her designee; and the chairperson of the Senate Education and Youth Committee or his or her designee. The members of the committee shall serve two-year terms concurrent with their terms as members of the General Assembly. The Speaker of the House of Representatives and the Lieutenant Governor shall each designate a cochairperson from among the appointees of their respective houses. The cochairpersons shall serve terms of two years concurrent with their terms as members of the General Assembly. Vacancies in an appointed member's position or in the offices of cochairperson of the committee shall be filled for the unexpired term in the same manner as the original appointment. The committee shall periodically inquire into and review the operations of high school athletic associations, as defined in subsection (c) of this Code section.

(b) No high school which receives funding under Article 6 of this chapter shall participate in, sponsor, or provide coaching staff for interscholastic sports events which are conducted under the authority of, conducted under the rules of, or scheduled by any high school athletics association unless such association complies with the provisions of this article.

(c) As used in this Code section, the term "committee" means the High School Athletics Overview Committee, and the term "high school

athletic association” means any association of schools or any other similar organization which acts as an organizing, sanctioning, scheduling, or rule-making body for interscholastic athletic events in which public high schools in this state participate. (Code 1981, § 20-2-2101, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2101. Powers and duties.

The Department of Education, the Attorney General, and all other agencies of state government, upon request by the committee, shall assist the committee in the discharge of its duties set forth in this article. The committee may employ staff and may secure the services of consultants as appropriate and subject to available funding. Upon authorization by joint resolution of the General Assembly, the committee shall have the power while the General Assembly is in session or during the interim between sessions to request the attendance of witnesses and the production of documents in aid of its duties. In addition, when the General Assembly is not in session, the committee shall have the power to request the attendance of witnesses and the production of documents in aid of its duties, upon application of the cochairpersons of the committee, with the concurrence of the Speaker of the House and the Senate Committee on Assignments. (Code 1981, § 20-2-2101, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2102. Cooperation and reporting by high school athletic associations.

All high school athletic associations in this state shall cooperate with the committee, its authorized personnel, the Attorney General, the Department of Education, and other state agencies in order that the charges of the committee may be timely and efficiently discharged. The associations shall submit to the committee such reports and data as the committee shall reasonably require in order that the committee may adequately perform its functions. The Attorney General is authorized to bring appropriate legal actions to enforce any laws specifically or generally relating to the associations. The committee shall, on or before the first day of January of each year, and at such other times as it deems necessary, submit to the General Assembly a report of its findings and recommendations based upon the review of the high school athletic associations, as set forth in this article. (Code 1981, § 20-2-2102, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2103. Evaluation of performance of high school athletic associations.

In the discharge of its duties, the committee shall evaluate the performance of high school athletic associations consistent with the following criteria:

(1) Fairness and equity in establishing and implementing its standards; and

(2) The promotion of academic achievement and good sportsmanship. (Code 1981, § 20-2-2103, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

20-2-2104. Expenditure of funds; compensation of members; funding.

(a) The committee is authorized to expend state funds available to the committee for the discharge of its duties. Said funds may be used for the purposes of compensating staff, paying for services of consultants, and paying all other necessary expenses incurred by the committee in performing its duties.

(b) The members of the committee shall receive the same compensation, per diem, expenses, and allowances for their service on the committee as is authorized by law for members of interim legislative study committees.

(c) The funds necessary for the purposes of the committee shall come from the funds appropriated to and available to the legislative branch of government. (Code 1981, § 20-2-2104, enacted by Ga. L. 2014, p. 368, § 1A/SB 288.)

ARTICLE 33

SCHOLARSHIP PROGRAM FOR SPECIAL NEEDS STUDENTS

20-2-2113. Annual notification of options available to parents of special needs students.

(a) The resident school system shall provide specific written notice of the options available under this article to the parent at the initial Individualized Education Program (IEP) meeting in which a disability of the parent's child is identified. Thereafter, the resident school system shall annually notify prior to the beginning of each school year the parent of a student with a disability by letter, electronic means, or by such other reasonable means in a timely manner of the options available to the parent under this article.

(b)(1) The parent may choose for the student to attend another public school within the resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. If the parent chooses this option, then the parent shall be responsible for transportation to such school. The student may attend such public school pursuant to this

paragraph until the student completes all grades of the school, graduates, or reaches the age of 21, whichever occurs first, in accordance with federal and state requirements for disabled students;

(2) The parent may choose to enroll the student in and transport the student to a public school outside of the student's resident school system which has available space and which has a program with the services agreed to in the student's existing individualized education program. The public school system may accept the student, and if it does, such system shall report the student for purposes of funding to the department;

(3) The parent may choose for the student to attend one of the state schools for the deaf and blind operated by the State Board of Education, if appropriate for the student's needs. Funding for such students shall be provided in accordance with Code Section 20-2-302; or

(4) The parent may request and receive from the department a scholarship for the student to enroll in and attend a participating private school in accordance with this article. (Code 1981, § 20-2-2113, enacted by Ga. L. 2007, p. 197, § 1/SB 10; Ga. L. 2015, p. 1312, § 1/HB 209.)

The 2015 amendment, effective July 1, 2015, in subsection (a), added the first sentence and substituted "Thereafter, the" for "The" at the beginning of the present second sentence.

20-2-2114. Qualifications for scholarship; financial responsibility; state-wide assessments; exception; compliance.

(a) A student shall qualify for a scholarship under this article if:

(1) The student's parent currently resides within Georgia and has been a Georgia resident for at least one year; provided, however, that the one-year requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year;

(2) The student has one or more of the following disabilities:

- (A) Autism;
- (B) Deaf/blind;
- (C) Deaf/hard of hearing;
- (D) Emotional and behavioral disorder;
- (E) Intellectual disability;
- (F) Orthopedic impairment;

- (G) Other health impairment;
- (H) Specific learning disability;
- (I) Speech-language impairment;
- (J) Traumatic brain injury; or
- (K) Visual impairment;

(3) The student:

(A) Has spent the prior school year in attendance at a Georgia public school; provided, however, that this requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year; and

(B) Has an Individualized Education Program written in accordance with federal and state laws and regulations; provided, however, that the State Board of Education shall be authorized to require a local board of education to expedite the development of an Individualized Education Program and to waive the prior school year requirement contained in subparagraph (A) of this paragraph, in its sole discretion, on a case-by-case basis for specific medical needs of the student upon the request of a parent or guardian in accordance with state board procedures. If an expedited Individualized Education Program is required by the state board pursuant to this subparagraph, the state board may additionally require such expedited process to be completed prior to the beginning of the school year. The State Board of Education shall provide an annual report by December 31 of each year through December 31, 2015, regarding the number of waivers approved pursuant to this paragraph to the General Assembly;

(4) The parent obtains acceptance for admission of the student to a participating school; and

(5) The parent submits an application for a scholarship to the department no later than the deadline established by the department; provided, however, that the department shall provide application deadline opportunities on September 15, December 15, and February 15 of each school year for a student to transfer.

(b) Upon acceptance of the scholarship, the parent assumes full financial responsibility for the education of the scholarship student, including transportation to and from the participating school.

(c) For a student who participates in the program whose parents request that the student take the state-wide assessments pursuant to Code Section 20-2-281, the resident school system shall make available to the student locations and times to take all state-wide assessments.

Test scores of private school students participating in the state-wide assessments shall not be applied to the system averages of the resident school system for data reported for federal and state requirements.

(d) Students enrolled in a school operated by the Department of Juvenile Justice are not eligible for the scholarship.

(e) The scholarship shall remain in force until the student returns to his or her assigned school in the resident public school system, graduates from high school, or reaches the age of 21, whichever occurs first. However, at any time, the student's parent may remove the student from the participating school and place the student in another participating school or public school as provided for in Code Section 20-2-2113.

(f) Acceptance of a scholarship shall have the same effect as a parental refusal to consent to services pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400, et seq.

(g) The creation of the program or the granting of a scholarship pursuant to this article shall not be construed to imply that a public school did not provide a free and appropriate public education for a student or constitute a waiver or admission by the state.

(h) Any scholarship directed to a participating school is so directed wholly as a result of the genuine and independent private choice of the parent.

(i) The parent of each student participating in the scholarship program shall comply fully with the participating school's rules and policies.

(j) Any parent who fails to comply with the provisions of this article and department regulations relating to the scholarship shall forfeit the scholarship. (Code 1981, § 20-2-2114, enacted by Ga. L. 2007, p. 197, § 1/SB 10; Ga. L. 2013, p. 753, § 1/HB 70; Ga. L. 2014, p. 866, § 20/SB 340; Ga. L. 2015, p. 116, § 1/HB 62.)

The 2013 amendment, effective July 1, 2013, rewrote paragraph (a)(3), and added the proviso at the end of paragraph (a)(5).

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, deleted "(IEP)" following "Individualized Education Program" in the first sentence of paragraph (a)(3).

The 2015 amendment, effective July 1, 2015, inserted "provided, however, that the one-year requirement shall not apply if the student's parent is an active duty military service member stationed in Georgia within the previous year;" at the end of paragraph (a)(1); and rewrote paragraph (a)(3).

20-2-2116. Amount of scholarship; method of payments.

(a) The maximum scholarship granted a scholarship student pursuant to this article shall be an amount equivalent to the costs of the educational program that would have been provided for the student in the resident school system as calculated under Code Section 20-2-161. This shall not include any federal funds.

(b) The amount of the scholarship shall be the lesser of the amount calculated in subsection (a) of this Code section or the amount of the participating school's tuition and fees, if applicable. The amount of any assessment fee required by the participating school may be paid from the total amount of the scholarship.

(c) Scholarship students shall be counted in the enrollment of their resident school system; provided, however, that this count shall only be for purposes of determining the amount of the scholarship and the scholarship students shall not be included as enrolled for purposes of state or federal accountability requirements, including, but not limited to, the federal Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001 (P.L. 107-110). The funds needed to provide a scholarship shall be subtracted from the allotment payable to the resident school system.

(d) Each local school system shall submit quarterly reports to the department on dates established by the department stating the number of scholarship students in the resident school system. Following each notification, the department shall transfer from the state allotment to each school system the amount calculated under subsection (b) of this Code section to a separate account for the scholarship program for quarterly disbursement to the parents of scholarship students. When a student enters the program, the department must receive all documentation required for the student's participation, including the participating school's and student's fee schedules, at least 30 days before the first quarterly scholarship payment is made for the student. The department may not make any retroactive payments.

(e) Upon proper documentation received by the department, the department shall make quarterly scholarship payments to the parents of scholarship students on or before October 15, December 15, February 15, and May 15 for quarterly periods corresponding, respectively, to August 1 through September 30, October 1 through November 30, December 1 through the last day of February, and March 1 through May 31 during each academic year in which the scholarship is in force. As nearly as practical, such quarterly payments shall be equal; provided, however, that this shall not prevent payments from being adjusted due to budgetary midterm adjustments made pursuant to Code Section 20-2-162. The state auditor shall cite as an audit excep-

tion any failure by the department to meet any payment deadlines and shall include such audit exceptions on the website established pursuant to Code Section 50-6-32. The initial payment shall be made upon evidence of admission to the participating school, and subsequent payments shall be made on evidence of continued enrollment and attendance at the participating school.

(f) Payment to the parents must be made by individual warrant made payable to the student's parent and mailed by the department to the participating school of the parent's choice, and the parent shall restrictively endorse the warrant to the participating school for deposit into the account of such school.

(g) A person, on behalf of a participating school, may not accept a power of attorney from a parent to sign a warrant, and a parent of a scholarship student may not give a power of attorney designating a person, on behalf of a participating school, as the parent's attorney in fact.

(h) If the participating school requires partial payment of tuition prior to the start of the academic year to reserve space for students admitted to the school, that partial payment may be paid by the department prior to the first quarterly payment of the year in which the scholarship is awarded, up to a maximum of \$1,000.00, and deducted from subsequent scholarship payments. If a student decides not to attend the participating school, the partial reservation payment must be returned to the department by such school. Only one reservation payment per student may be made per year. (Code 1981, § 20-2-2116, enacted by Ga. L. 2007, p. 197, § 1/SB 10; Ga. L. 2013, p. 753, § 2/HB 70.)

The 2013 amendment, effective July 1, 2013, substituted "subsection (b) of this Code section" for "Code Section 20-2-161" in the second sentence of subsection (d); and, in subsection (e), substituted the present provisions of the first sentence for the former provisions, which read: "Upon proper documentation received by the de-

partment, the department shall make quarterly scholarship payments to the parents of scholarship students on dates established by the department during each academic year in which the scholarship is in force.", and added the second and third sentences.

CHAPTER 2A

STUDENT SCHOLARSHIP ORGANIZATIONS

Sec.		Sec.	
20-2A-1.	Definitions.	20-2A-7.	Penalties for failure to comply with requirements of chapter; violations.
20-2A-2.	Requirements for student scholarship organizations.		
20-2A-3.	Taxation reporting requirements for student scholarship organizations.		

20-2A-1. Definitions.

As used in this chapter, the term:

(1) “Eligible student” means a student who is a Georgia resident who, immediately prior to receiving a scholarship or tuition grant under Code Section 20-2A-2 and enrolling in a qualified school or program, was enrolled in and attended for at least six weeks a Georgia secondary or primary public school or who is eligible to enroll in a qualified first grade, kindergarten program, or pre-kindergarten program; provided, however, that if a student is deemed an eligible student pursuant to this paragraph, he or she shall continue to qualify as such until he or she graduates, reaches the age of 20, or returns to a public school, whichever occurs first; and provided, further, that the enrollment and six-week public school attendance requirements shall be waived in the case of a student who, based on the school attendance zone of his or her primary residence, is or would be assigned to a public school that the Office of Student Achievement determines to be a low-performing school, who is the subject of officially documented cases of school based physical violence or student related verbal abuse threatening physical harm, or who was enrolled in a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 for at least one year immediately prior to receiving a scholarship or tuition grant under Code Section 20-2A-2.

(2) “Qualified school or program” means a nonpublic pre-kindergarten program, primary school, or secondary school that:

(A) Is accredited or in the process of becoming accredited by one or more entities listed in subparagraph (A) of paragraph (6) of Code Section 20-3-519; and

(B) Is located in this state, adheres to the provisions of the federal Civil Rights Act of 1964, and satisfies the requirements prescribed by law for private schools in this state.

(3) “Student scholarship organization” means a charitable organization in this state that:

(A) Is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code and obligates for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants to allow students to attend any qualified school of their parents' choice; and

(B) Provides educational scholarships or tuition grants to eligible students without limiting availability to only students of one school. (Code 1981, § 20-2A-1, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33A/HB 283.)

The 2013 amendment, effective May 7, 2013, substituted the present provisions of paragraph (1) for the former provisions, which read: "Eligible student' means a student who is a Georgia resident enrolled in a Georgia secondary or primary public school or eligible to enroll in a qualified first grade, kindergarten program, or pre-kindergarten program; provided, however, that if a student is deemed an eligible student pursuant to

this paragraph, he or she shall continue to qualify as such until he or she graduates, reaches the age of 20, or returns to a public school, whichever occurs first." See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-2. Requirements for student scholarship organizations.

Each student scholarship organization:

(1) With respect to the first \$1.5 million of its annual revenue received from donations for scholarships or tuition grants, must obligate at least 90 percent of such revenue for scholarships or tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$1.5 million and up to and including \$10 million, must obligate at least 93 percent of such revenue for scholarships and tuition grants; with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$10 million and up to and including \$20 million, must obligate at least 94 percent of such revenue for scholarships and tuition grants; and, with respect to its annual revenue received from donations for scholarships or tuition grants in excess of \$20 million, must obligate at least 95 percent of such revenue for scholarships and tuition grants. On or before the end of the calendar year following the calendar year in which a student scholarship organization receives revenues from donations and obligates them for the awarding of scholarships or tuition grants, the student scholarship organization shall designate the obligated revenues for specific student recipients. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants, the student scholarship organization may

distribute the entire obligated and designated revenues to a qualified school or program to be held in accordance with Department of Revenue rules for distribution to the specified recipients during the years in which the recipients are projected in writing by the private school to be enrolled at the qualified school or program. In making a multiyear distribution to a qualified school or program, the student scholarship organization shall require that if the designated student becomes ineligible or for any other reason the qualified school or program elects not to continue disbursement of the multiyear scholarship or tuition grant to the designated student for all the projected years, then the qualified school or program shall immediately return the remaining funds to the student scholarship organization. Once the student scholarship organization designates obligated revenues for specific student recipients, in the case of multiyear scholarships or tuition grants for which the student scholarship organization distributes the obligated and designated revenues to a qualified school or program annually rather than the entire amount, if the designated student becomes ineligible or for any other reason the student scholarship organization elects not to continue disbursement for all years, then the student scholarship organization shall designate any remaining previously obligated revenues for a new specific student recipient on or before the end of the following calendar year. The maximum scholarship amount given by the student scholarship organization in any given year shall not exceed the average state and local expenditures per student in fall enrollment in public elementary and secondary education for this state. The Department of Education shall determine and publish such amount annually, no later than January 1;

(1.1) In awarding scholarships or tuition grants, shall consider financial needs of students based on all sources, including the federal adjusted gross income from the federal income tax return most recently filed by the parents or guardians of such students, as adjusted for family size. If the parents or guardians of a student have not filed a federal income tax return in either of the two calendar years immediately preceding the year of application, the student scholarship organization shall consider the financial need of the student based on proof of employment income of the parents or guardians from the 30 consecutive days closest to when the applicant submitted the scholarship application and on any other sources of income, including, but not limited to, unemployment benefits, social security benefits, and child support benefits;

(2) Must maintain separate accounts for scholarship funds and operating funds. Until obligated revenues are designated for specific student recipients, the student scholarship organization shall hold the obligated revenues in a bank or investment account owned by the

student scholarship organization and over which it has complete control;

(3) Must have an independent board of directors with at least three members;

(4) May transfer funds to another student scholarship organization;

(5) Must conduct an audit of its accounts by an independent certified public accountant within 120 days after the completion of the student scholarship organization's fiscal year verifying that it has complied with all requirements of this Code section, including but not limited to financial requirements. Each student scholarship organization shall provide a copy of such audit to the Department of Revenue in accordance with Code Section 20-2A-3. Notwithstanding Code Sections 20-2A-7, 48-2-15, 48-7-60, and 48-7-61, if the copy of the audit submitted fails to verify that the student scholarship organization obligated its annual revenue received from donations for scholarships or tuition grants as required under paragraph (1) of this Code section; that obligated revenues were designated for specific student recipients within the time frame required by paragraph (1) of this Code section; and that all obligated and designated revenue distributed to a qualified school or program for the funding of multiyear scholarships or tuition grants complied with all applicable Department of Revenue rules, then the Department of Revenue shall post on its website the details of such failure to verify. Until any such noncompliant student scholarship organization submits an amended audit, which, to the satisfaction of the Department of Revenue, contains the verifications required under this Code section, the Department of Revenue shall not preapprove any contributions to the noncompliant student scholarship organization; and

(6) Must annually submit notice to the Department of Education in accordance with department guidelines of its participation as a student scholarship organization under this chapter. (Code 1981, § 20-2A-2, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33B/HB 283.)

The 2013 amendment, effective May 7, 2013, substituted the present provisions of paragraph (1) for the former provisions, which read: "Must obligate for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants; however, up to 25 percent of this amount may be carried forward for the next fiscal year. The maximum scholarship amount given by the student scholar-

ship organization in any given year shall not exceed the average state and local expenditures per student in fall enrollment in public elementary and secondary education for this state. The Department of Education shall determine and publish such amount annually, no later than January 1;"; added paragraph (1.1); added the second sentence in paragraph (2); and substituted the present provisions of paragraph (5) for the former provisions,

which read: “Must conduct an audit of its accounts by an independent certified public accountant within 120 days after the completion of the student scholarship organization’s fiscal year verifying that it obligated for scholarships or tuition grants at least 90 percent of its annual revenue received from donations for scholarships or tuition grants and provide such

audit to the Department of Revenue in accordance with Code Section 20-2A-3; and”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-3. Taxation reporting requirements for student scholarship organizations.

(a) Each student scholarship organization must report to the Department of Revenue, on a form provided by the Department of Revenue, by January 12 of each tax year the following:

(1) The total number and dollar value of individual contributions and tax credits approved. Individual contributions shall include contributions made by those filing income tax returns as a single individual or head of household and those filing joint returns;

(2) The total number and dollar value of corporate contributions and tax credits approved;

(3) The total number and dollar value of scholarships awarded to eligible students;

(4) The total number of families of scholarship recipients who fall within each quartile of Georgia adjusted gross income as defined and reported annually by the Department of Revenue and the average number of dependents of recipients for each quartile; and

(5) A list of donors, including the dollar value of each donation and the dollar value of each approved tax credit.

Such report shall also include a copy of the audit conducted pursuant to paragraph (5) of Code Section 20-2A-2. The Department of Revenue shall post on its website the information received from each student scholarship organization pursuant to paragraphs (1) through (4) of this subsection.

(b) Except for the information reported pursuant to paragraphs (1) through (4) of subsection (a) of this Code section, all information or reports provided by student scholarship organizations to the Department of Revenue shall be confidential taxpayer information, governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether it relates to the donor or the student scholarship organization. (Code 1981, § 20-2A-3, enacted by Ga. L. 2008, p. 1108, § 1/HB 1133; Ga. L. 2011, p. 529, § 1/HB 325; Ga. L. 2013, p. 1061, § 33C/HB 283.)

The 2013 amendment, effective May 7, 2013, in subsection (a), deleted “and” at the end of paragraph (a)(3); added paragraph (a)(4); redesignated former paragraph (a)(4) as present paragraph (a)(5); and substituted “received from each student” for “received by each student” in the second sentence of the ending undesignated paragraph; in subsection (b), deleted the former first sentence, which read: “The Department of Revenue shall not require any other information

from student scholarship organizations, except as expressly authorized in this chapter.”, and substituted “Except for the information reported pursuant to paragraphs (1) through (4) of subsection (a) of this Code section, all” for “All”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 1061, § 33E/HB 283, not codified by the General Assembly, provides, in part, that this Code section shall apply to all taxable years beginning on or after January 1, 2013.

20-2A-7. Penalties for failure to comply with requirements of chapter; violations.

(a)(1) Any student scholarship organization that fails to comply with any requirements under this chapter shall be given written notice by the Department of Revenue of such failure to comply by certified mail and shall have 90 days from the receipt of such notice to correct all deficiencies.

(2) Upon failure to correct all deficiencies within 90 days, such student scholarship organization shall:

(A) Be immediately removed from the Department of Education list provided for in Code Section 20-2A-6;

(B) Be required to cease all operations as a student scholarship organization and transfer all scholarship account funds to a properly operating student scholarship organization within 30 calendar days of receipt of notice from the Department of Revenue of removal from the approved list; and

(C) Have all applications for preapproval of tax credits under Code Section 48-7-29.16 rejected by the Department of Revenue on or after the date the Department of Education removes the student scholarship organization from its list provided for in Code Section 20-2A-6.

(b) Any student scholarship organization that:

(1) Awards or restricts the award of a scholarship to a specific eligible student at the request of a donor; or

(2) Encourages or facilitates taxpayers to engage in actions that are prohibited by law

shall be subject to paragraph (2) of subsection (a) of this Code section.

(c) Any officer or director of a student scholarship organization found to have actively participated in a student scholarship organization’s

intentional violation of its obligations under this chapter shall be guilty of a misdemeanor. (Code 1981, § 20-2A-7, enacted by Ga. L. 2011, p. 529, § 1/HB 325.)

CHAPTER 3

POSTSECONDARY EDUCATION

Article 2		Sec.	
Board of Regents and University System		20-3-47.1.	Division to administer part.
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ARTICLE 2

BOARD OF REGENTS AND UNIVERSITY SYSTEM

PART 1

BOARD OF REGENTS

20-3-36. Applicability of sovereign immunity doctrine.

JUDICIAL DECISIONS

Board’s immunity under the doctrine of sovereign immunity was not waived.

Trial court properly denied summary judgment to the board of regents because even if there was an agreement between

the parties, that agreement was not in writing and, therefore, the board’s sovereign immunity was not waived. Bd. of Regents of the Univ. Sys. of Ga. v. Winter, 331 Ga. App. 528, 771 S.E.2d 201 (2015).

PART 1A

DIVISION OF ARCHIVES AND HISTORY

Editor's notes. — Ga. L. 2013, p. 594, § 1-1/HB 287, effective July 1, 2013, re-designated former Article 3 of Chapter 13 of Title 45 as present Part 1A of Article 2 of Chapter 3 of Title 20.

20-3-41. Division of Archives and History transferred to University System.

(a) There is transferred to the University System of Georgia the Division of Archives and History formerly of the office of the Secretary of State which on and after July 1, 2013, shall be the Division of Archives and History of the University System of Georgia and may also be referred to as the Georgia Archives. The Georgia Archives so transferred shall be under the management and control of the board of regents and shall be the successor to and a continuation of the former Division of Archives and History of the Office of the Secretary of State. All persons employed in the former division as of June 30, 2013, shall be transferred to the new division effective July 1, 2013.

(b) The change of the name and governance of the former Division of Archives and History of the Office of the Secretary of State and its continuation, as provided in this Code section, shall in no way affect any existing obligations, liabilities, or rights of the Georgia Archives, as such existed on June 30, 2013. All such obligations, liabilities, and rights are transferred to, vested in, and assumed by the board. All existing contracts and agreements between any party and the Georgia Archives shall not be affected by this Code section but shall continue in full force and effect, without interruption, as contracts or agreements of the board.

(c) All right, title, interest, and ownership of all assets, including all real estate, of the former Division of Archives and History of the Office of the Secretary of State are transferred to and vested in the board. (Ga. L. 1918, p. 137, § 1; Ga. L. 1919, p. 234, § 1; Ga. L. 1929, p. 1516; Code 1933, § 40-801; Code 1981, § 45-13-40; Ga. L. 2002, p. 532, § 9; Code 1981, § 20-3-41, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-40 as present Code Section 20-3-41; designated the existing Code section as subsection (a); rewrote subsection (a); and added subsections (b) and (c).

20-3-41.1. Objectives and purposes generally.

The objects and purposes of the Georgia Archives shall be to:

(1) Ensure the retention and preservation of the records of any state or local agency with historical and research value by providing

for the application of modern and efficient methods to the creation, utilization, maintenance, retention, preservation, and disposal of records;

(2) Provide an archival and records' depository in which to assemble and maintain the official archives and other inactive records of the state not in current and common use;

(3) Collect from the files of old newspapers, court records, church records, private collections, and other sources data of all kinds bearing upon the history of the state;

(4) Secure from private individuals, either by loan or gift, rare volumes, manuscripts, documents, and pamphlets for the use of this division;

(5) Obtain, either by loan or gift, historical trophies, souvenirs, and relics;

(6) Classify, edit, annotate, and publish in print or electronically from time to time such records as may be deemed expedient and proper, including messages of Governors, executive orders, state papers, and military rosters of the Revolutionary, Indian, Mexican, Civil, and European wars;

(7) Diffuse knowledge in regard to the state's history;

(8) Reserved;

(9) Encourage the proper marking of battlefields, houses, and other places celebrated in the history of the state;

(10) Encourage the study of Georgia history in the public schools;

(11) Assist in the observance of patriotic occasions;

(12) Plan and coordinate celebrations and observations of events and anniversaries having historic or special significance to this state;

(13) Stimulate historical research, especially in the prosecution of local histories;

(14) Foster sentiment looking to the better protection, classification, and arrangement of records in the various courthouses of the state;

(15) Collect biographical information in regard to all public officials and to keep same on file, in a classified arrangement, for convenient reference by investigators; and

(16) Encourage the study of historical documents including but not limited to those which reflect our National Motto, the Declaration of Independence, the Ten Commandments, the Constitution of the

United States, and such other nationally recognized documents which contributed to the history of the State of Georgia. (Ga. L. 1918, p. 137, § 1; Ga. L. 1931, p. 7, § 89-B; Code 1933, § 40-802; Ga. L. 1969, p. 989, § 1; Ga. L. 1980, p. 485, § 1; Code 1981, § 45-13-41; Ga. L. 1990, p. 8, § 45; Ga. L. 2002, p. 532, § 10; Ga. L. 2010, p. 838, § 10/SB 388; Code 1981, § 20-3-41.1, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-41 as present Code Section 20-3-41.1; and substituted “Reserved” for the former provisions of paragraph (8), which read: “Prepare biennially an official register giving the latest information of an

official character in regard to the state, including a full list of state officers, legislators, judges, district attorneys, members of Congress, county officials, etc., together with other pertinent items of information.”

20-3-41.2. Surrender of materials to division for preservation; preparation of certified copies; ownership, operation, and management of electronic archival records; exemption for certain records under certain conditions; “constitutional officer” defined.

(a) Any state, county, or other official is authorized, in his or her discretion, to turn over for permanent preservation in the Division of Archives and History any official books, records, documents, original papers, manuscript files, newspaper files, portraits, and printed volumes not in current use in his or her office. Any record created or received by a state agency, constitutional officer, or Speaker of the House of Representatives in the performance of a public duty or paid for by public funds and certified by the director of the Division of Archives and History as necessary to document the history, organization, functions, policies, decisions, and procedures of the agency or office shall be placed for permanent preservation in the Division of Archives and History when no longer in current use by the agency or officer. The board shall provide for the preservation of said materials; and, when so surrendered, copies thereof shall be made and certified by the director upon the application of any person interested, and such certification shall have the same force and effect as if made by the officers originally in custody of them and for which the same fees shall be charged.

(b) The Division of Archives and History shall own and operate any equipment necessary to manage and retain control of electronic archival records in its custody but may, at its discretion, contract with third-party entities to provide any or all services related to managing archival records on equipment owned by the contractor, by other third parties, or by the Division of Archives and History.

(c) Personal and official records and papers of the Lieutenant Governor and the Speaker of the House of Representatives shall be exempt

from the provisions of subsection (a) of this Code section when such records and papers are deposited in a repository that meets the minimum archival and public access standards promulgated by the Division of Archives and History.

(d) As used in this Code section, the term “constitutional officer” means any officer enumerated in Article V, Section I, Paragraph I; Article V, Section I, Paragraph III; or Article V, Section III, Paragraph I of the Constitution. (Ga. L. 1918, p. 137, § 6; Ga. L. 1931, p. 7, § 89-B; Code 1933, § 40-805; Code 1981, § 45-13-46; Ga. L. 2002, p. 532, § 15; Ga. L. 2004, p. 591, § 2; Ga. L. 2007, p. 83, § 2/SB 210; Code 1981, § 20-3-41.2, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-46 as present Code Section 20-3-41.2; in subsection (a), in the third sentence, substituted “The board” for “The

Secretary of State”, and substituted “and such certification” for “which certification”; and deleted “of the State of Georgia” following “Constitution” at the end of subsection (d).

20-3-41.3. Study of historical documents; public displays of the Foundations of American Law and Government.

(a) The General Assembly finds and determines:

(1) One of the purposes of the Division of Archives and History is to encourage the study of historical documents;

(2) There is a need to educate and inform the public about the history and background of American law;

(3) The public buildings of this state are an ideal forum in which to display educational and informational material about the history and background of American law; and

(4) A basic knowledge of American constitutional history is important to the formation of civic virtue in our society.

(b) The state and each municipality and political subdivision of this state shall be authorized to post the Foundations of American Law and Government display, as described in subsection (c) of this Code section, in a visible, public location in the public facilities of the state and such municipality or political subdivision.

(c) The Foundations of American Law and Government display shall include:

(1) The Mayflower Compact, 1620;

(2) The Ten Commandments as extracted from Exodus Chapter 20;

(3) The Declaration of Independence;

(4) Magna Carta;

- (5) “The Star-Spangled Banner” by Francis Scott Key;
- (6) The national motto;
- (7) The Preamble to the Georgia Constitution;
- (8) The Bill of Rights of the United States Constitution; and
- (9) The description on the image of Lady Justice.

(d) Public displays of the Foundations of American Law and Government shall contain the documents set forth in paragraphs (1) through (9) of subsection (c) of this Code section together with a context for acknowledging formative, historically significant documents in America’s heritage as follows:

FOUNDATIONS OF AMERICAN LAW AND GOVERNMENT DISPLAY

The Foundations of American Law and Government display contains documents that played a significant role in the foundation of our system of law and government. The display contains (1) the Mayflower Compact; (2) the Ten Commandments; (3) the Declaration of Independence; (4) Magna Carta; (5) “The Star-Spangled Banner”; (6) the national motto of the United States of America; (7) the Preamble to the Georgia Constitution; (8) the Bill of Rights of the United States Constitution; and (9) a picture of Lady Justice.

The Mayflower Compact

The Mayflower Compact was penned by William Bradford on November 11, 1620, on the *Mayflower* before the Pilgrims made landfall at Plymouth, Massachusetts. The Compact was the first written constitution in the New World. William Bradford described the reasoning behind the Compact when he stated in the Compact, “This day, before we came to harbour, observing some not well affected to unity and concord, but gave some appearance of faction, it was thought good there should be an association and agreement, that we should combine together in one body, and to submit to such government and governors as we should by common consent agree to make and choose, and set our hands to this that follows, word for word.”

The Ten Commandments

The Ten Commandments have profoundly influenced the formation of Western legal thought and the formation of our country. That influence is clearly seen in the Declaration of Independence, which declared that “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.” The Ten Commandments provide the moral background of the Declaration of Independence and the foundation of our legal tradition.

The Declaration of Independence

Perhaps the single most important document in American history, the Declaration of Independence was, as Abraham Lincoln stated, the “frame” into which the Framers placed the Constitution. The Declaration’s fundamental premise is that one’s right to “Life, Liberty and the pursuit of Happiness” is not a gift of government. Government is not a giver of rights, but a protector of God-given rights. Moreover, government is a creation of “the governed” and derives all its power from the consent of its people. As the Preamble to the United States Constitution states, “We the People” are the government.

Magna Carta

In 1215, King John of England consented to the demands of his barons and agreed for Magna Carta to be publicly read throughout the land. By this act he bound himself and “our heirs, in all things and all places for ever” to grant to the people of his kingdom the rights pronounced in Magna Carta. By signing Magna Carta, King John brought himself and England’s future rulers within the rule of law. The rule of law places a restraint on the exercise of arbitrary government power, and it places all people and civil government under law. The American patriots, therefore, waged war against England to preserve liberties originating in thirteenth century England. A distinction, however, is noted between Magna Carta and the American concept of liberty. While Magna Carta is a guarantee from a king that he will follow the law, the Constitution of the United States is the establishment of a government consisting of, and created for, “We the People.”

“The Star-Spangled Banner”

Guarding the entrance to Baltimore harbor via the Patapsco River during the War of 1812, Fort McHenry faced almost certain attack by British forces. Major George Armistead, the stronghold’s commander, was ready to defend the fort, but he wanted a flag that would identify his position, one whose size would be visible to the enemy from a distance. The flag that was made for the fort was 30 feet by 42 feet. Anxiously awaiting news of the battle’s outcome was a Washington, D.C., lawyer named Francis Scott Key. Key had visited the enemy’s fleet to secure the release of a Maryland doctor who had been abducted by the British after they left Washington. The lawyer had been successful in his mission, but he could not escort the doctor home until the attack ended. So he waited on a flag-of-truce sloop anchored eight miles downstream from Fort McHenry.

During the night, there had been only occasional sounds of the fort’s guns returning fire. At dawn, the British bombardment tapered off. Had the fort been captured? Placing a telescope to his eye. Key trained it on the fort’s flagpole. There he saw the large garrison flag catch the

morning breeze. It had been raised as a gesture of defiance, replacing the wet storm flag that had flown through the night. Thrilled by the sight of the flag and the knowledge that the fort had not fallen, Key took a letter from his pocket and began to write some verses on the back of it. Later, after the British fleet had withdrawn, Key checked into a Baltimore hotel and completed his poem on the defense of Fort McHenry. He then sent it to a printer for duplication on handbills, and within a few days the poem was put to the music of an old English song. Both the new song and the flag became known as “The Star-Spangled Banner” and became a rallying cry for the American Patriots during the rest of the war.

The National Motto

The motto was derived from the line “And this be our motto, ‘In God is our trust’” in the U.S. national anthem, “The Star-Spangled Banner.” The phrase first appeared on U.S. coins in 1864 and became obligatory on all U.S. currency in 1955. In accordance with Public Law No. 851 passed at the Second Session of the 84th Congress of the United States, July 30, 1956, the national motto of the United States became “In God We Trust.”

The Preamble to the Georgia Constitution

The Preamble to the Georgia Constitution celebrates the ideas of free government, justice, peace, happiness, and liberty. Government is a creation of “the governed” and derives all its power from the consent of its people. The people, therefore, desiring a civilized society, created and ordained the Constitution of the State of Georgia.

The Bill of Rights of the United States Constitution

During the debates on the adoption of the U.S. Constitution, its opponents repeatedly charged that the Constitution as drafted would open the way to tyranny by the central government. Fresh in their minds was the memory of the British violation of civil rights before and during the Revolution. They demanded a “bill of rights” that would spell out the immunities of individual citizens. Several state conventions in their formal ratification of the Constitution asked for such amendments; others ratified the Constitution with the understanding that the amendments would be offered. The Bill of Rights is still a vital and powerful force in American government, shaping our laws and serving as a check on the exercise of government power.

Lady Justice

Lady Justice has become a symbol of the fair and equal administration of the law, without corruption, avarice, prejudice, or favor. The blindfold represents a system of justice that is blinded to all prejudices or favor. The scales represent justice that is administered fairly and the

sword represents justice that is authoritative. Lady Justice is a symbol of the American system of justice and the ideals it embodies.

(e) All documents which are included in the Foundations of American Law and Government displays shall be posted on paper not less than 11 x 14 inches in dimension and shall be framed in identically styled frames. No one document shall be displayed more prominently than another.

(f) In no event shall any state funding be used for a display of the Foundations of American Law and Government. (Code 1981, § 45-13-51, enacted by Ga. L. 2006, p. 258, § 1/HB 941; Ga. L. 2012, p. 699, § 1/HB 766; Code 1981, § 20-3-41.3, as redesignated by Ga. L. 2013, p. 594, § 1-1/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-51 as present Code Section 20-3-41.3; and substituted the present provisions of paragraph (a)(1) for the former provisions, which read: “The General Assembly has directed the Division of Ar-

chives and History of the State of Georgia to encourage the study of historical documents”.

Law reviews. — For article on the 2012 amendment of this Code section, see 29 Ga. St. U.L. Rev. 214 (2012).

PART 1B

GEORGIA HISTORICAL RECORDS ADVISORY COUNCIL

Editor’s notes. — Ga. L. 2013, p. 594, § 1-2/HB 287, effective July 1, 2013, redesignated former Article 3A of Chapter

13 of Title 45 as present Part 1B of Article 2 of Chapter 3 of Title 20.

20-3-45. Georgia Historical Records Advisory Council created; purpose; members; expenses; coordinator; officers; meetings; administrative assignment; staff.

(a) As used in this part, the term:

(1) “Council” means the Georgia Historical Records Advisory Council created under this part.

(2) “Division” means the Division of Archives and History of the University System of Georgia.

(b) There is created and established the Georgia Historical Records Advisory Council with such powers and duties as are set forth in this part. The council shall be a continuation of and successor in interest to the former Georgia Historical Records Advisory Board.

(c) The purpose of the council shall be to advise the board and the Division of Archives and History; to serve as the state advisory body required by federal granting agencies; and to encourage cooperative efforts to improve the condition of Georgia’s historical records.

(d) The council shall consist of 12 members to be appointed by the Governor. A majority of the members shall have recognized experience in the administration of government records, historical records, or archives or in a field of research or activity that makes extensive use of historical records. The council shall be as broadly representative as possible of the public and private archival and research communities and organizations in the state.

(e) The Governor shall designate the initial terms of the members of the council as follows: four members shall be appointed for one year; four members shall be appointed for two years; and four members shall be appointed for three years. Thereafter, all succeeding appointments shall be for three-year terms, except that each member shall serve until a successor is appointed. Members shall be eligible for reappointment.

(f) Whenever any vacancy in the membership of the council occurs, the Governor shall appoint a qualified person to fill the unexpired term.

(g) Members of the council shall serve without compensation, except that each member who is not a state officer or state employee shall receive the same expense allowance per day as that received by a member of the General Assembly for each day that such member of the council is in attendance at a meeting of such council, plus reimbursement for actual transportation costs while traveling by public carrier or the same mileage allowance as state government employees for use of a personal car in connection with such attendance.

(h) The director of the Division of Archives and History shall serve as Georgia historical records coordinator and assist the council in its activities.

(i) The council shall elect its chairperson and other officers and make such bylaws for its operation as may be necessary or appropriate.

(j) The council shall meet at least once each calendar year and special meetings may be called by the chairperson.

(k) The council shall be administratively assigned to the division.

(l) The council shall have no permanent staff but may hire temporary staff for specific activities if funds are available. (Code 1981, § 45-13-55, enacted by Ga. L. 1993, p. 1087, § 1; Ga. L. 2002, p. 532, § 18; Code 1981, § 20-3-45, as redesignated by Ga. L. 2013, p. 594, § 1-2/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-55 as present Code Section 20-3-45; substituted “Council” for “Board” and “council” for “board” throughout this Code section; substituted “part” for “article” in

paragraph (a)(1) and in the first sentence of subsection (b); added “of the University System of Georgia” at the end of paragraph (a)(2); added the second sentence in subsection (b); substituted “the board” for “the Secretary of State” in subsection (c);

and, in subsections (i) and (j), substituted “chairperson” for “chair”.

20-3-45.1. Powers and duties of council.

The council shall have the following powers, duties, authorities, and functions to:

(1) Serve as the state advisory body required by federal granting authorities for state projects and to follow the regulations and guidelines promulgated by those granting authorities;

(2) Serve in an advisory capacity to the Division of Archives and History on issues concerning records;

(3) Identify endangered records of historical value and to recommend appropriate actions to protect them;

(4) Promote state-wide planning for historical records needs;

(5) Cooperate with and secure cooperation of every department, agency, or instrumentality in the state government or its political subdivisions in furtherance of the purposes of this part;

(6) Encourage high visibility historical records projects and studies with a state-wide impact, when studies and projects cross organizational and jurisdictional lines;

(7) Foster communication among all members of the historical records community and to encourage the development and adoption of state-wide goals and common practices to improve the condition of historical records;

(8) Appoint appropriate subcommittees or advisory committees;

(9) Recommend to the State Records Committee records retention schedules for records of the board in accordance with Article 5 of Chapter 18 of Title 50, the “Georgia Records Act”;

(10) Accept and use gifts, grants, and donations for the purpose of carrying out this part. Any funds, personal property, or services received as gifts, grants, or donations shall be kept separate and apart from any funds received by state appropriations; and such funds, property, or services so received by gifts, grants, or donations shall remain under the control of and subject to the direction of the council to carry out this part and as such shall not lapse at the end of each fiscal year;

(11) Make grants for the purpose of carrying out this part. Such grants shall be made and the funds shall be administered and expended subject to this part and in accordance with the rules and regulations of the funding source; and

(12) Do any and all things necessary and proper to enable it to perform wholly and adequately its duties and to exercise the authority granted to it. (Code 1981, § 45-13-56, enacted by Ga. L. 1993, p. 1087, § 1; Ga. L. 1994, p. 97, § 45; Ga. L. 2002, p. 532, § 19; Code 1981, § 20-3-45.1, as redesignated by Ga. L. 2013, p. 594, § 1-2/HB 287; Ga. L. 2014, p. 866, § 20/SB 340; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-56 as present Code Section 20-3-45.1; substituted “part” for “article” throughout this Code section; and substituted “council” for “board” in the introductory paragraph and in paragraph (10).

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modern-

ize, and correct the Code, substituted “this article” for “this part” at the end of the first sentence in paragraph (10).

The 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, substituted “this part” for “this article” twice in paragraph (10).

PART 1C

SURPLUS STATE BOOKS

Editor’s notes. — Ga. L. 2013, p. 594, § 1-3/HB 287, effective July 1, 2013, redesignated former Article 5 of Chapter 13

of Title 45 as present Part 1C of Article 2 of Chapter 3 of Title 20.

20-3-47. Definitions.

As used in this part, the term:

(1) “Agency head” means the official or body authorized to establish policy on behalf of a state agency.

(1.1) “Division” means the Division of Archives and History of the University System of Georgia.

(2) “Nonprofit organization” means a bona fide nonprofit civic, educational, or charitable organization.

(3) “State agency” means any department, board, bureau, commission, committee, council, court, or other agency, by whatever name designated, of the executive, legislative, or judicial branch of the state government.

(4) “Surplus printed material” means books or other printed papers owned by the state or a state agency and in the possession of a state agency, which books and papers are no longer needed by that agency, which are declared surplus by such agency, and which need not be maintained by the agency as a part of its records. (Code 1933, § 40-601a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-80; Code 1981, § 20-3-47, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-80 as present Code Section 20-3-47; substituted “part” for “article” in the introductory paragraph; and added paragraph (1.1).

Code Commission notes. — Pursuant

to Code Section 28-9-5, in 2013, the redesignation of former Code Section 45-13-80 as Code Section 20-3-47, by Ga. L. 2013, p. 594, § 3-1/HB 287, effective July 1, 2013, was implemented despite the failure to strike the Code Section 45-13-80 designation.

20-3-47.1. Division to administer part.

The division shall be the administrator of this part. (Code 1933, § 40-602a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-81; Code 1981, § 20-3-47.1, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-81 as present Code Section 20-3-47.1; and rewrote this Code section.

The 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, substituted “this part” for “this article” at the end of this Code section.

Code Commission notes. — Ga. L. 2013, p. 594, § 1-3/HB 287, purported to amend Code Section 45-13-80 20-3-47. Pursuant to Code Section 28-9-5, in 2013, Code Section 45-13-80 was redesignated as Code Section 20-3-47.

20-3-47.2. Declaration of printed material as surplus; preparation of inventory of material; transmission of inventory to division; filing of duplicate copy.

The head of each state agency is authorized to declare printed material in the possession of such state agency as surplus printed material. At the time printed material is declared to be surplus printed material, the agency head shall make or cause to be made a complete inventory of the surplus printed material. The inventory shall describe the surplus printed material in sufficient detail, if practicable, to allow the division to make the determination provided for in Code Section 20-3-47.3. The inventory shall contain a statement of the declaration of the printed material as surplus printed material; such declaration shall be signed by the agency head; and the date signed shall be indicated thereon. As a part thereof or as an attachment thereto, the inventory shall show the physical location of the surplus printed material. Upon its completion, the agency head shall transmit the original of the inventory to the division. A duplicate of the original copy shall be retained in the files of the state agency as a part of the records of such agency. (Code 1933, § 40-603a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-82; Code 1981, § 20-3-47.2, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-82 as present Code Section 20-3-47.2; substituted “division” for “Secretary of State” in the third and sixth sentences, and substituted “Code Section 20-3-47.3” for “Code Section 45-13-83” in the third sentence.

20-3-47.3. Determination of archival value of surplus printed material; release of material to division; notation of release on inventory; transmission of copy of inventory to originating state agency.

(a) When the division receives an inventory of surplus printed material as provided for by Code Section 45-13-82, the division shall make a determination of whether or not any of such surplus printed material has archival value within the meaning of Part 1A of this article. If the determination cannot be made on the basis of the description of the surplus printed material included in the inventory of such material, the director of the division or his or her designee shall visit the state agency which submitted the inventory for the purpose of examining the surplus printed material listed on such inventory; and the determination required in this Code section may be made on the basis of such examination.

(b) If any surplus printed material is determined to have archival value as provided by subsection (a) of this Code section, the state agency which submitted the inventory shall release such printed material to the division. The division shall make or cause to be made a notation on the inventory for each item of surplus printed material so released; and a copy of such inventory, signed by the director of the division or his or her designee, containing the notations thereon shall be transmitted to the originating state agency. The state agency submitting the inventory shall be authorized to deliver surplus printed material having archival value to the division if the state agency has transportation available for such purpose. If the state agency does not have transportation available for such purpose, the division shall provide for the transportation of surplus printed material having archival value. (Code 1933, § 40-604a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-83; Ga. L. 2002, p. 532, § 20; Code 1981, § 20-3-47.3, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-83 as present Code Section 20-3-47.3; and rewrote this Code section.

20-3-47.4. Authorization for donation to nonprofit organizations of surplus printed material not having archival value; rules and regulations.

(a) The return to the state agency of the copy of the inventory, signed by the director of the division or his or her designee, containing the

notations thereon of the surplus printed material having archival value, as provided by Code Section 20-3-47.3, shall serve as the authorization for the state agency to donate to any nonprofit organization the surplus printed material which does not have archival value.

(b) Each state agency donating such surplus printed material to nonprofit organizations is authorized to adopt rules and regulations governing such donations, but such rules and regulations shall be consistent with this part and with rules and regulations adopted by the board pursuant to Code Section 20-3-31. (Code 1933, § 40-605a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-84; Code 1981, § 20-3-47.4, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section 45-13-84 as present Code Section 20-3-47.4; in subsection (a), substituted “director of the division or his or her” for “Secretary of State or his” and substituted “Code Section 20-3-47.3” for “Code Section

45-13-83”; in subsection (b), substituted “part” for “article” near the middle and substituted “board pursuant to Code Section 20-3-31” for “Secretary of State pursuant to Code Section 45-13-81” at the end.

20-3-47.5. Applicability of part.

This part shall not be construed to apply to surplus books or printed material owned by any county or independent school system, any city, county, or regional library, or any political subdivision of this state. (Code 1933, § 40-606a, enacted by Ga. L. 1978, p. 911, § 1; Code 1981, § 45-13-85; Code 1981, § 20-3-47.5, as redesignated by Ga. L. 2013, p. 594, § 1-3/HB 287.)

The 2013 amendment, effective July 1, 2013, redesignated former Code Section

45-13-85 as present Code Section 20-3-47.5 and rewrote this Code section.

PART 2

UNIVERSITY SYSTEM

20-3-86. (Repealed effective June 30, 2016) Nonlapsing revenue of institutions in university system.

Revenue collected by any or all institutions in the university system from tuition, departmental sales or services, continuing education fees, technology fees, or indirect cost recoveries shall not lapse. The amount of revenue from tuition that shall not lapse under this Code section shall not exceed 3 percent of the tuition collected. This Code section shall stand repealed on June 30, 2016. (Code 1981, § 20-3-86, enacted by Ga. L. 2003, p. 313, § 5; Ga. L. 2006, p. 686, § 2/HB 1294; Ga. L. 2008, p. 884, § 2-1/HB 1183; Ga. L. 2010, p. 576, § 2-1/HB 1128; Ga. L. 2013, p. 747, § 2-1/HB 45.)

The 2013 amendment, effective May 6, 2013, substituted “2016” for “2013” at the end of this Code section.

ARTICLE 4

JUNIOR COLLEGES

20-3-133. Payments from regents to local operating authorities; local support from fees and taxes; audits.

There shall be paid to every local operating authority which shall have established a junior college under this article, upon which construction had commenced prior to January 1, 1964, and which is not operated as a unit of the university system under the board of regents an amount which shall be determined on the basis of a budget for each fiscal year, developed pursuant to a formula agreed upon by the local operating authority, the director of the Senate Budget and Evaluation Office, the director of the House Budget and Research Office, and the director of the Office of Planning and Budget. Budgets prepared pursuant to this authority shall be for expenses incurred by a junior college for educational and general expenditures as set forth in the latest edition of the publication entitled “College and University Business Administration.” Such formula shall include financial participation from the local operating authority to include student matriculation fees and funds derived from not less than a one-half nor more than a three-fourths mill tax established by the local operating authority on the ad valorem tax digest of its political subdivision. No state funds shall be appropriated for capital construction. Expenditure under this article shall be audited annually by the Department of Audits and Accounts. (Ga. L. 1958, p. 47, § 5; Ga. L. 1964, p. 686, §§ 2, 6; Ga. L. 1970, p. 645, § 1; Ga. L. 1972, p. 538, § 1; Ga. L. 1975, p. 522, § 1; Ga. L. 2008, p. VO1, § 1-11/HB 529; Ga. L. 2014, p. 866, § 20/SB 340.)

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modernize, and correct the Code, substituted “Senate Budget and Evaluation Office” for

“Senate Budget Office” and substituted “House Budget and Research Office” for “House Budget Office” in the first sentence of this Code section.

ARTICLE 7
SCHOLARSHIPS, LOANS, AND GRANTS

PART 1

GEORGIA STUDENT FINANCE
COMMISSION

20-3-236. Powers and duties of commission, board of commissioners, and officers; confidentiality; repayments and refunds.

(a) In addition to all other provisions of this part and in furtherance of the purposes of the commission, the commission shall have the following powers, duties, and functions:

(1) The board of commissioners shall serve as the board of directors of the corporation pursuant to this paragraph and Part 2 of this article; and, whenever they are convened as and are acting in the capacity of the board of directors of the corporation, they shall carry out and fully effectuate the powers, duties, functions, and corporate purposes of the corporation in accordance with Part 2 of this article without regard to any other power, duty, or function vested in them under this part or under any other provision of law;

(2) The board of commissioners shall serve as the board of directors of the authority pursuant to this paragraph and Part 3 of this article; and, whenever they are convened as and are acting in the capacity of the board of directors of the authority, they shall carry out and fully effectuate the powers, duties, functions, and corporate purposes of the authority in accordance with Part 3 of this article without regard to any other power, duty, or function vested in them under this part or under any other provision of law;

(3) The officers of the commission shall serve in the same capacity as officers of the corporation and as officers of the authority, respectively, pursuant to this paragraph and Parts 2 and 3 of this article, respectively. Nothing contained in this part, however, shall be construed to mean or require that the officers of the board of directors of the corporation and the officers of the board of directors of the authority shall be the same persons or that they shall be the same persons who are serving as officers of the board of commissioners under this part;

(4) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the corporation and disburse such moneys to the corporation;

(5) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the authority and disburse such moneys to the authority;

(6) The commission shall receive all moneys made available to the commission by the General Assembly or otherwise for purposes of the commission and use such moneys for purposes of the commission;

(7) The commission shall also have the following additional powers:

(A) To adopt an official seal and to alter the seal at its pleasure;

(B) To maintain a principal office and such other offices as it may deem necessary;

(C) To adopt bylaws and policies for the regulation of its affairs and the conduct of its business;

(D) To adopt rules and regulations necessary or appropriate for the administration of its affairs; the exercise of its powers, duties, and functions; and the accomplishment of its purposes, pursuant to this part;

(E) To enter into agreements and undertakings as may be necessary or appropriate in the exercise of its powers, duties, and functions under this part;

(F) To perform such other acts as may be necessary or appropriate to effectuate the purposes of the commission under this part;

(G) To enter into agreements with the United States government for the purpose of securing the benefits of any federal law which provides federal funds for any student financial aid purpose or for any activity related to student financial aid, including, without limitation, activities such as research activities, the collection and reporting of data, the administration of any activity related to student financial aid, and dissemination of information and services to the public; to comply with the provisions of such federal law; to adopt such rules, regulations, resolutions, and procedures as may be necessary to secure such federal funds; and to provide matching funds as may be required from funds available to the commission;

(H) To solicit, receive, and accept funds from any source, public or private, by gift, grant, bequest, or otherwise, either absolutely or in trust, and to hold, use, invest, administer, and expend such funds on behalf of the commission and for any of its purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold, use, administer, and

dispose of such property on behalf of the commission and for any of its purposes; and

(I) To advertise or otherwise promote the programs, functions, and purposes of the commission, the Georgia Higher Education Assistance Corporation, and the Georgia Student Finance Authority and to expend funds available to the commission for such purposes.

(b) Pursuant to Code Section 50-18-70, the commission shall not disclose and shall keep confidential, in each case unless identifying information has been redacted:

(1) Records that include information identifying a student or former student by name, address except for ZIP Code, telephone number, or emergency contact; and

(2) Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, or month and day of birth.

(c) Except as prohibited by federal or state law, individuals who owe any amount to the commission relating to any scholarship or grant made by the commission, including repayments and refunds, are, without judicial action, subject to garnishment of their pay, loss of a professional license, offset of lottery winnings, and offset of a state tax refund in accordance with rules and regulations promulgated by the commission. As used in this subsection, the term "refund" means scholarship and grant amounts paid to or on behalf of individuals, in accordance with rules and regulations promulgated by the commission, subsequently determined to be ineligible to receive such scholarship and grant amounts. The remedies set forth in this subsection shall be in addition to all other remedies available at law and in equity. (Code 1933, § 32-3107, enacted by Ga. L. 1980, p. 835, § 1; Ga. L. 1981, p. 735, § 52; Ga. L. 1992, p. 1001, § 1; Ga. L. 1996, p. 837, § 2; Ga. L. 2014, p. 801, § 1/HB 697; Ga. L. 2015, p. 935, § 1/HB 320.)

The 2014 amendment, effective July 1, 2014, in subparagraph (7)(H), inserted "solicit," and inserted ", and accept" near the beginning.

The 2015 amendment, effective July 1, 2015, designated the existing provisions of this Code section as subsection (a) and added subsections (b) and (c).

PART 1A

NONPUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS

20-3-250.2. Definitions.

As used in this part, the term:

(1) “Agent” means any natural person owning any interest in, employed by, or representing for remuneration a nonpublic postsecondary educational institution within or outside this state and who, by solicitation in any form made in this state, enrolls or seeks to enroll a resident of this state for education offered by such institution, or who offers to award educational credentials, for remuneration, on behalf of any such institution, or who holds himself or herself out to residents of this state as representing a nonpublic postsecondary educational institution for any such purpose.

(2) “Agent’s permit” means a nontransferable written authorization issued to a natural person by the executive director which allows that person to solicit or enroll any resident of this state for education in a nonpublic postsecondary educational institution.

(3) “Authorization to operate,” or like term, means authorization by the commission to operate or to contract to operate a nonpublic postsecondary educational institution in this state or to conduct nonpublic postsecondary activities.

(3.1) “Board of trustees” or “board” means the Board of Trustees of the Tuition Guaranty Trust Fund provided for in Code Section 20-3-250.27.

(4) “Certificate” means a diploma or similar document indicating satisfactory completion of training in a course or program of study, not leading to a postsecondary degree, which is offered by a nonpublic postsecondary educational institution.

(5) “Commission” means the Nonpublic Postsecondary Education Commission provided for in Code Section 20-3-250.4.

(6) “Course” means any plan or program of instruction or study, whether conducted in person, by mail, or by any other method.

(7) “Date of notice” means the date the notice is mailed by the executive director.

(8) “Education” or “educational services,” or like term, means, but is not limited to, any class, course, or program of training, instruction, study, or testing.

(9) “Educational credentials” means certificates, degrees, transcripts, reports, documents or letters of designation, marks, appella-

tions, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a nonpublic postsecondary educational institution.

(10) "Entity" means, but is not limited to, any company, firm, society, association, partnership, corporation, or trust.

(11) "Executive director" means the executive director of the Nonpublic Postsecondary Education Commission.

(11.1) "Gross tuition" means the total amount collected by a postsecondary educational institution during the most recently completed 12 month fiscal year, reduced only by the amount of refunds paid during the fiscal year, for tuition, application fees, registration fees, and those other fees deemed appropriate by rule or regulation of the commission; provided, however, that for a postsecondary educational institution located outside of this state which is authorized only for the purpose of advertising and recruiting in this state, or is authorized only for the purpose of offering instruction by correspondence or any telecommunications or electronic media technology, or a combination of these purposes, "gross tuition" means only the amount of such tuition and fees collected from residents of this state while such residents reside in this state.

(12) "Nonpublic" means a private postsecondary educational institution not established, operated, or governed by the State of Georgia, or any public or private postsecondary educational institution legally operating in another state or nation that conducts postsecondary activities in Georgia or offers postsecondary instruction leading to a postsecondary degree or certificate granted to Georgia residents from a location outside Georgia.

(13) "Notice to the postsecondary educational institutions" means written correspondence sent to the address of record for legal service contained in the application for a certificate of authorization as provided for in this part.

(14) "Owner" of a postsecondary educational institution means:

(A) In the case of a postsecondary educational institution owned by an individual, that individual;

(B) In the case of a postsecondary educational institution owned by a partnership, all full, silent, and limited partners; and

(C) In the case of a postsecondary educational institution owned by a corporation, the corporation and each shareholder owning shares of issued and outstanding stock aggregating at least 10 percent of the total of the issued and outstanding shares.

(15) "Person" means any individual, firm, partnership, association, corporation, or other private entity.

(16) "Postsecondary degree" means a credential conferring on the recipient thereof the title of "Associate," "Bachelor," "Master," "Specialist," or "Doctor," or an equivalent title, signifying educational attainment based on:

(A) Study;

(B) A substitute for study in the form of equivalent experience or achievement testing; or

(C) A combination of the foregoing, provided that "postsecondary degree" shall not include any honorary degree or other so-called "unearned" degree.

(17) "Postsecondary activity" means awarding a postsecondary degree or certificate or conducting or offering study, experience, or testing for an individual, or certifying prior successful completion by an individual of study, experience, or testing under the representation that the individual successfully completing the study, experience, or testing will be awarded therefor, at least in part, a postsecondary degree or certificate.

(18) "Postsecondary educational institution" means a postsecondary degree-granting or certificate-granting nonpublic college or university or a proprietary school, offering instruction or educational services primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance, or any sole proprietorship, group, partnership, venture, society, company, corporation, school, or consortium of colleges, universities, or other institutions that engages in, purports to engage in, or intends to engage in any type of postsecondary activity.

(19) "Proprietary school" or "school" means any business enterprise operated for a profit or on a nonprofit basis which maintains a place of business within this state or solicits business within this state, which is not specifically exempted by Code Section 20-3-250.3, and which offers a course or courses of instruction or study available through classroom instruction, correspondence, or any telecommunications or electronic media technology, or any combination thereof, to a person or persons for the purpose of:

(A) Training such person or persons for work in a business, trade, or technical or industrial occupation; or

(B) Preparing such person or persons for taking and passing certification exams for work in a business, trade, or technical or industrial occupation.

(20) “School employee” means any person, other than any “owner” as defined in paragraph (14) of this Code section, who directly or indirectly receives compensation from a postsecondary educational institution for services rendered.

(21) “Student” means any person who contracts to pay for and be the recipient of any course defined in paragraph (6) of this Code section.

(22) “Support” or “supported” means the primary source or having as the primary source from which a postsecondary educational institution derives revenue to perform its operation.

(23) “Telecommunications or electronic media technology” means a delivery mode which utilizes but is not limited to television, video cassette or disc, film, radio, computer, or other supportive devices which build upon the audio-video format.

(24) “To grant” means awarding, selling, conferring, bestowing, or giving.

(25) “To offer” means, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.

(26) “To operate” an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from which, or through which education is offered or given or educational credentials are offered or granted and includes contracting with any person, group, or entity to perform any such act and to conduct postsecondary activities within this state or from a location outside of this state by correspondence or by any telecommunications or electronic media technology, provided that such educational institution specifically recruits persons located within this state or has a physical presence within this state.

(27) “Tuition guaranty fund” or “fund” means the Tuition Guaranty Trust Fund provided for in Code Section 20-3-250.27. (Code 1981, § 20-3-250.2, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1991, p. 687, § 1; Ga. L. 1992, p. 6, § 20; Ga. L. 1992, p. 1657, § 1; Ga. L. 1992, p. 2615, § 1; Ga. L. 1993, p. 91, § 20; Ga. L. 1994, p. 1282, § 1; Ga. L. 1995, p. 728, § 1; Ga. L. 2002, p. 1414, § 1; Ga. L. 2015, p. 83, § 1/HB 353.)

The 2015 amendment, effective July 1, 2015, added “while such residents reside in this state” at the end of paragraph (11.1); inserted “Specialist,” in the introductory language of paragraph (16); and

added “, provided that such educational institution specifically recruits persons located within this state or has a physical presence within this state” at the end of paragraph (26).

20-3-250.3. Educational institutions exempted from application of part.

(a) The following education and postsecondary educational institutions are exempted from this part except as expressly provided to the contrary:

(1) Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade regardless of the age of the student;

(2) Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the commission, solely for that organization's membership or offered on a no-fee basis, not granting degrees;

(3) Education solely avocational or recreational in nature, as determined by the commission, and institutions, not granting degrees, offering such education exclusively;

(4) Postsecondary educational institutions established, operated, governed, or licensed by this state, its agencies, or its political subdivisions, as determined by the commission;

(5) Any flight school which holds an applicable federal air agency certificate issued by the administrator of the Federal Aviation Administration;

(6) Nonpublic, nonprofit, postsecondary educational institutions which demonstrate annually to the satisfaction of the commission that their purposes are solely to provide programs of study in theology, divinity, religious education, and ministerial training, and that they do not grant postsecondary degrees of a nonreligious nature and that such institutions:

(A) Accept no federal or state funds; and

(B) Accept no student who has a federal or state education loan to attend such institutions;

(7) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, nonpublic law schools not accredited by the American Bar Association which are subject to the regulations and standards established by the Georgia Supreme Court for such schools;

(8) Nonpublic postsecondary educational institutions conducting postsecondary activity on the premises of military installations located in this state which are solely for military personnel stationed on active duty at such military installations, their dependents, or Department of Defense employees and other civilian employees of that installation;

(9) A school where the sole purpose of the instructional program is review or preparation for a specific occupational examination recognized by a government agency or bona fide trade, business, or fraternal organization and where the student's occupational training received from another school already makes the student eligible to sit for the examination;

(10) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic, nonprofit college or university granting baccalaureate degrees whose principal office and campus are located in this state and its related graduate and professional programs, which have been in existence ten or more years as a nonpublic, nonprofit college or university and is accredited by a national or regional accrediting agency recognized by the United States Department of Education; provided, however, that such nonpublic, nonprofit college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such nonpublic, nonprofit college or university as a prerequisite for such nonpublic, nonprofit college's or university's acceptance of federal student financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such nonpublic, nonprofit college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any preexisting authorizations, charters, or recognition;

(11) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any liberal arts college or university whose principal office and campus are located in this state and its related graduate and professional programs, if any, which was chartered prior to 1955 as a nonpublic, nonprofit, degree-granting institution, provided that it is accredited by a regional or national accrediting agency recognized by the United States Department of Education; and provided, further, that such liberal arts college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such liberal arts college or university as a prerequisite for such liberal arts college's or university's acceptance of federal financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such liberal arts college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any preexisting authorizations, charters, or recognition;

(12) Any institution offering only education or training in income tax theory or income tax return preparation when the total contract price for such education or training does not exceed \$1,000.00, provided that the total charges incurred by any student for all instruction, other than instruction which is solely avocational or recreational in nature as provided in paragraph (3) of this subsection, do not exceed \$1,000.00 in any one calendar year;

(13) Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic medical school accredited by the Liaison Committee on Medical Education and a national or regional accrediting agency recognized by the United States Department of Education; and

(14) Any college or university that confers both associate and baccalaureate or higher degrees, that is accredited by the Southern Association of Colleges and Schools, College Division, that is operated in a proprietary status, that provides a \$200,000.00 surety bond, and that contributes to the Tuition Guaranty Trust Fund pursuant to Code Section 20-3-250.27; provided, however, that such college or university shall be subject to the provisions of Code Section 20-3-250.14 for the purposes of satisfying the requirements of 34 C.F.R. Section 668.43(b) and shall designate the commission as the recipient of complaints from students of such college or university as a prerequisite for such college's or university's acceptance of federal student financial aid funds; and provided, further, that the designation provided for under this paragraph shall be provided solely to the extent necessary for institutional compliance of such college or university with the laws and regulations governing federal student financial aid and shall not affect, rescind, or supersede any preexisting authorizations, charters, or recognition.

(b) Except as otherwise provided in subsection (a) of this Code section, any nonpublic postsecondary educational institution whose students participate in either state or federally funded student financial aid programs is specifically covered by this part.

(c) A postsecondary educational institution which is also regulated pursuant to the provisions of Title 43 shall be exempted only from the provisions of paragraph (2) of subsection (b) of Code Section 20-3-250.5, subsections (a) and (b) of Code Section 20-3-250.6, and Code Section 20-3-250.11.

(d) A postsecondary educational institution which has been granted an exemption from provisions of this part pursuant to paragraph (6) of subsection (a) of this Code section shall subsequently submit an annual statement to the commission which affirms that the institution continues to meet the requirements for exempt status as listed in paragraph

(6) of subsection (a) of this Code section. The statement shall be submitted using a form provided by the commission. The commission may request information on the form concerning the names of programs of study offered and the titles of degrees, diplomas, certificates, or other credentials conferred. Institutions which qualify for exempt status may include class components or subjects which are nonreligious in nature but relate to the church related work being performed by the institution. The commission may also authorize an annual visitation by the commission staff to the institution. (Code 1981, § 20-3-250.3, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1991, p. 980, § 1; Ga. L. 1991, p. 1165, § 1; Ga. L. 1992, p. 2198, § 1; Ga. L. 1992, p. 2615, § 2; Ga. L. 1994, p. 1282, § 2; Ga. L. 2002, p. 1414, § 2; Ga. L. 2015, p. 83, § 2/HB 353; Ga. L. 2015, p. 103, § 2-1/HB 372.)

The 2015 amendments. — The first 2015 amendment, effective July 1, 2015, added “regardless of the age of the student” at the end of paragraph (a)(1); substituted “operated, governed, or licensed” for “operated, and governed” in the middle of paragraph (a)(4); added the proviso at the end of paragraph (a)(10); deleted former paragraph (a)(11), which read: “Subject to the requirements of subsection (c) of Code Section 20-3-250.6, any nonpublic institute of paper science and technology offering graduate degrees and which is allied with a public research university

and accredited by a national or regional accrediting agency recognized by the United States Department of Education;”, redesignated former paragraphs (a)(12) through (a)(15) as present paragraphs (a)(11) through (a)(14), respectively; added the last two provisos in paragraph (a)(11); substituted “\$1,000.00” for “\$400.00” twice in paragraph (a)(12); and added the last two provisos in paragraph (a)(14). The second 2015 amendment, effective July 1, 2015, deleted “prior to July 1, 1989,” preceding “and is accredited” near the end of paragraph (a)(10).

20-3-250.4. Nonpublic Postsecondary Education Commission; membership.

(a) There is established the Nonpublic Postsecondary Education Commission consisting of 15 members who shall be appointed by the Governor and confirmed by the Senate. One member shall be appointed from each congressional district and the remaining member shall be appointed as an at-large member. Members serving a term of appointment on January 1, 2015, shall complete their terms of appointment, thereafter members of the commission shall be appointed for terms of three years each. Each member shall serve for the term of office to which the person is appointed and until a successor is appointed, confirmed, and qualified. Members may be appointed to succeed themselves but shall not serve for more than two full consecutive terms.

(b) Two members of the commission shall be appointed to represent degree-granting nonpublic postsecondary educational institutions and two members shall be appointed to represent nonpublic postsecondary educational institutions which grant certificates only. The remaining members shall not be employed by or otherwise represent or have an interest in any nonpublic postsecondary educational institution.

(c) The commission shall elect from its members a chairperson, a vice chairperson, and such other officers as are considered necessary, each to serve for a one-year term. Officers may be elected to succeed themselves.

(d) Vacancies on the commission, except those caused by expiration of term, shall be filled by the Governor's appointing a successor who meets the requirement for the vacated position and who shall be confirmed by the Senate to serve for the remainder of the unexpired term of office.

(e) The commission shall meet at least quarterly on the call of the chairperson or upon the written petition of a majority of the commission.

(f) The members of the commission shall serve without compensation, but on presentation of a voucher authorized by the chairperson of the commission and approved by the executive director, each member shall be entitled to receive for each day's expenses incurred while carrying out official commission business the same daily expense allowance and travel or mileage allowance as that authorized for members of the General Assembly.

(g) A majority of the currently appointed commission shall constitute a quorum for the conduct of business.

(h) Any person appointed to the commission when the Senate is not in session may serve on the commission without Senate confirmation until the Senate acts on that appointment. (Code 1981, § 20-3-250.4, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1994, p. 1282, § 3; Ga. L. 2002, p. 1414, § 3; Ga. L. 2015, p. 83, § 3/HB 353.)

The 2015 amendment, effective July 1, 2015, substituted the present provisions of subsection (a) for the former provisions, which read: "There is established the Nonpublic Postsecondary Education Commission consisting of 14 members who shall be appointed by the Governor and confirmed by the Senate. One member shall be appointed from each congressional district and the remaining members shall be appointed as at-large members. The first members appointed to the commission shall be appointed for terms of office beginning July 1, 1991, with four of those members to serve initial terms of one year each, four of those members to serve initial terms of two years each, and four of those members to serve initial terms of three years each.

The initial terms of office shall be specified in the appointment. After these initial terms, members of the commission shall be appointed for terms of three years each. Each member shall serve for the term of office to which the person is appointed and until a successor is appointed, confirmed, and qualified. Members may be appointed to succeed themselves but shall not serve for more than two full consecutive terms."; substituted "a majority" for "at least seven members" near the end of subsection (e); and, in subsection (g), inserted "currently appointed" near the beginning, and deleted ", but not less than seven voting members must concur in order for the commission to take official action" following "business" at the end.

20-3-250.5. Administration; general powers and duties.

(a) The commission shall be assigned to the Georgia Student Finance Commission for administrative purposes only. The commission shall be a budget unit of the executive branch of the state government.

(b) The commission shall have the following powers and duties:

(1) To establish and promulgate standards, rules, regulations, and policies for carrying out the provisions of this part and for the orderly operation of the commission. To effectuate the purposes of this part, the commission may request from any department, division, board, bureau, commission, or other agency of the state, and such agency shall provide such information as will enable the commission to exercise properly its powers and perform its duties under this part;

(2) To establish minimum criteria in conformity with Code Section 20-3-250.6, including quality of education, ethical and business practices, health and safety, and fiscal responsibility which applicants for authorization to operate or for an agent's permit shall meet before such authorization or permit may be issued, and to continue such authorization or permit in effect. The criteria to be developed under this paragraph shall be such as will effectuate the purposes of this part but will not unreasonably hinder legitimate educational innovation;

(3) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states and with the United States Department of Education if, in the judgment of the commission, such agreements are or will be helpful in effectuating the purposes of this part; but nothing contained in any such reciprocity agreement shall be construed as limiting the commission's or the executive director's powers, duties, and responsibilities with respect to investigating independently or acting upon any application for authorization to operate or for renewal of such authorization to operate a nonpublic postsecondary educational institution, or upon an application for issuance or renewal of any agent's permit, or with respect to the enforcement of any provision of this part, or of any of the rules or regulations promulgated under this part;

(4) To promulgate rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this part, and to hold such hearings as it may deem advisable or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry;

(5) To delegate to the executive director such administrative powers and duties, in addition to those powers and duties of the executive director otherwise specified in this part, as may be reasonably

necessary to carry out effectively this part and to establish such administrative organization and procedures as may be reasonably necessary to carry out this part;

(6) To exercise other powers and duties implied but not enumerated in this subsection but in conformity with this part which, in the judgment of the commission, are necessary in order to carry out this part;

(7) To submit annually to the House Higher Education Committee, to the House Education Committee and the Senate Education and Youth Committee, and to the Senate Higher Education Committee an annual written report summarizing the activities of the commission in regard to its responsibilities, activities, and administration of this part;

(8) To receive and hold title to property, equipment, money, and materials;

(9) To contract with other state, federal, or local public or private schools and other entities, individuals, or other legal entities for the provision of services or activities the commission deems necessary; and

(10) To establish and promulgate regulations for qualified proprietary institutions whose students receive tuition equalization grants in accordance with the criteria set forth in subparagraph (B) of paragraph (2) of Code Section 20-3-411.

(c) The executive director of the Nonpublic Postsecondary Education Commission shall be appointed by the Governor. The executive director shall administer the provisions of this part as provided in this subsection and as provided by rules, regulations, and policies of the commission. The executive director shall have the following powers and duties:

(1) To employ such personnel as may be necessary to carry out the provisions of this part and in connection therewith to develop job descriptions for such personnel;

(2) To receive, investigate as he may deem necessary, and act upon applications for authorization to operate nonpublic postsecondary educational institutions and upon applications for agents' permits;

(3) To maintain separate lists of degree-granting nonpublic postsecondary educational institutions, nondegree-granting postsecondary educational institutions, and agents authorized to operate in this state under this part. Such lists shall be available for the information of the public;

(4) To receive and cause to be maintained as a permanent file copies of academic records in conformity with Code Section 20-3-250.17;

(5) To investigate as he may deem necessary on his own initiative or in response to any complaint lodged with him any person, group, or entity subject to, or reasonably believed by him to be subject to, the jurisdiction of this part; and, in connection therewith, to subpoena any persons, books, records, or documents pertaining to such investigation, which subpoenas shall be enforceable by any court of this state; to require answers in writing under oath to questions propounded by him; and to administer an oath or affirmation to any person in connection with any investigation; and

(6) To administer compliance with this part in accordance with standards, rules, regulations, and policies of the commission.

(d) The commission shall establish separate listings for degree-granting institutions and nondegree-granting institutions. All standards, rules, regulations, and policies adopted by the commission pursuant to this part shall identify the listings to which such standards, rules, regulations, and policies are applicable.

(e) The commission shall be authorized to provide for biennial review of a previously authorized program of instruction at any institution which has received accreditation by a national or regional accrediting agency recognized by the United States Department of Education. The commission shall promulgate guidelines which shall be followed by the executive director in recommending such biennial program reviews to the commission. (Code 1981, § 20-3-250.5, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1992, p. 1657, § 2; Ga. L. 1995, p. 265, § 1; Ga. L. 1995, p. 728, §§ 2, 3; Ga. L. 2001, p. 4, § 20; Ga. L. 2009, p. 303, § 7/HB 117; Ga. L. 2011, p. 1, § 9/HB 326; Ga. L. 2015, p. 83, § 4/HB 353.)

The 2015 amendment, effective July 1, 2015, in subsection (d), substituted “listings” for “divisions” in the first and second sentences.

20-3-250.8. Application to operate or conduct postsecondary activities.

(a) Each nonpublic postsecondary educational institution desiring to operate or conduct postsecondary activities in this state shall make application to the commission, upon forms to be provided by the commission. Such application shall be accompanied by a catalog or other written description published, or proposed to be published, by the institution, containing the information specified in subparagraph (a)(1)(D) of Code Section 20-3-250.6, including information required by rules and regulations of the commission. Such application shall also be accompanied by evidence of a surety bond if required by Code Section 20-3-250.10 and subsection (c) of Code Section 20-3-250.27 and shall be accompanied by payment of the fees specified in Code Section 20-3-250.11; provided, however, that when making application to the

commission for authorization to operate, those institutions exempt from certain provisions of this part pursuant to the provisions of paragraph (10) of subsection (a) of Code Section 20-3-250.3 or subsection (c) of Code Section 20-3-250.3 shall be required to submit only those documents pertaining to provisions of this part from which such institutions are not exempt.

(b) A nonpublic postsecondary educational institution shall not operate or conduct postsecondary activities in any building in which that institution did not previously operate or conduct postsecondary activities unless the institution obtains authorization to operate or conduct those activities in that building as a branch facility. An application for authorization to operate any branch facility shall be accompanied by catalogs, other written documents, evidence of bond, and payment of fees as required for an initial application pursuant to subsection (a) of this Code section.

(c) Following review of such application and any further information submitted by the applicant or required by the executive director, an on-site inspection of the physical facility at which the institution will be operating, if located in this state, and such investigation of the applicant as the executive director may deem necessary or appropriate, the executive director shall either grant or deny authorization to operate to the applicant. A grant of authorization to operate may be on such terms and conditions as the executive director may specify.

(d) The authorization to operate shall be in a form recommended and approved by the commission and shall state in a clear and conspicuous manner at least the following information:

- (1) The date of issuance, effective date, and term of authorization;
- (2) The correct name and address of the institution so authorized;
- (3) The authority for authorization and conditions thereof;
- (4) Any limitation of the authorization, as deemed necessary by the executive director;
- (5) The signature of the executive director or such person as may have been designated by the executive director; and
- (6) Any other fair and reasonable representations consistent with this part and deemed necessary by the executive director.

(e) The term for which authorization is given shall not extend for more than one year and may be issued for a lesser period of time.

(f) The authorization to operate shall be issued to the owner or governing body of the applicant institution and shall be nontransferable. In the event of a change in ownership of the institution, a new

owner or governing body shall within ten days after the change in ownership notify the commission in writing and shall within 30 days after the change in ownership make application to the commission for a new authorization to operate; and in the event of failure to do so, the institution's authorization to operate shall terminate. Application for a new authorization to operate by reason of change in ownership of the institution shall, for purposes of subsection (b) of Code Section 20-3-250.12, be deemed an application for renewal of the institution's authorization to operate.

(g) At least 60 days prior to the expiration of an authorization to operate, the institution shall complete and file with the executive director an application form for renewal of its authorization to operate. Such renewal application shall be reviewed and acted upon as provided in subsections (c) through (f) of this Code section.

(h) An institution not yet in operation when its application for authorization to operate is filed may not begin operation or conduct any postsecondary activities until receipt of authorization.

(i) Each nonpublic postsecondary educational institution which has been granted an authorization to operate or conduct postsecondary activities in this state shall obtain authorization from the executive director before it offers any course not offered by the institution at the time its most recent authorization was granted. The commission by regulation shall establish procedures and standards for authorization of such additional course offerings. (Code 1981, § 20-3-250.8, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1992, p. 1657, § 5; Ga. L. 1994, p. 1282, § 6; Ga. L. 2015, p. 83, § 5/HB 353.)

The 2015 amendment, effective July 1, 2015, in the second sentence of subsection (f), substituted "shall" for "must," and substituted "notify the commission in

writing and shall within 30 days after the change in ownership make application to the commission" for ", apply".

20-3-250.10. Surety bonds; filing; amount; release of surety; suspension upon release of surety.

(a) At the time an initial application or application for a branch facility is made for authorization to operate, the executive director shall require the nonpublic postsecondary educational institution making such application to file with the executive director a good and sufficient surety bond in such sum as determined by subsection (b) of this Code section. Such bond shall be executed by the applicant as principal and by a surety company qualified and authorized to do business in this state. The bond shall be conditioned to provide indemnification to the Tuition Guaranty Trust Fund established in Code Section 20-3-250.27 and to any student or enrollee or that person's parent or guardian or class thereof determined to have suffered loss or damage as a result of

any act or practice which is a violation of this part or of rules and regulations promulgated pursuant thereto by such nonpublic postsecondary educational institution and that the bonding company shall pay any final, nonappealable judgment rendered by the commission or any court of this state having jurisdiction, upon receipt of written notification thereof. Regardless of the number of years that such bond is in force, the aggregate liability of the surety thereon shall in no event exceed the penal sum of the bond. The bond may be continuous.

(b) The minimum amount of the bond required by subsection (a) of this Code section shall be based on the gross tuition of the nonpublic postsecondary educational institution during the previous year or on the estimated gross tuition for the current year, whichever is larger, and shall be as follows:

<u>Gross Tuition</u>	<u>Minimum Bond</u>
\$ 0.00 — \$ 50,000.00	\$ 20,000.00
50,001.00 — 100,000.00	30,000.00
100,001.00 — 200,000.00	50,000.00
200,001.00 — 300,000.00	75,000.00
300,001.00 — 400,000.00	100,000.00
400,001.00 — 500,000.00	150,000.00
500,001.00 and over	200,000.00

For situations where a nonpublic postsecondary educational institution is unable to secure a bond amount provided for by this subsection, a bank standby letter of credit secured from a federally insured financial institution shall be accepted pursuant to rules and regulations of the commission.

(c) If the bond filed with the initial application to operate remains in effect, it shall be sufficient when an application is made for the renewal of authorization to operate, unless the amount of the bond must be increased because of increased gross tuition to comply with requirements of subsection (b) of this Code section.

(d) The surety bond to be filed under this Code section shall cover the period of the authorization to operate except when a surety shall be released as provided in this Code section. A surety on any bond filed under this Code section may be released therefrom after such surety shall serve written notice thereof on the executive director at least 90 days prior to such release; but such release shall not discharge or otherwise affect any claim theretofore or thereafter filed by a student or enrollee or that person's parent or guardian or class thereof for loss or damage resulting from any act or practice which is a violation of this

part or of rules and regulations promulgated pursuant thereto alleged to have occurred while such bond was in effect or from an institution's ceasing operations during the term for which tuition has been paid while such bond was in force.

(e) Authorization for an institution to operate shall be suspended by operation of law when such institution is no longer covered by a surety bond as required by this Code section, but the executive director shall cause such institution to receive at least 30 days' written notice prior to the release of the surety to the effect that such authorization or permit shall be suspended by operation of law until another surety bond shall be filed in the same manner and like amount as the bond being terminated. (Code 1981, § 20-3-250.10, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1991, p. 687, § 4; Ga. L. 1992, p. 1657, § 7; Ga. L. 1994, p. 1282, § 7; Ga. L. 1995, p. 728, § 4; Ga. L. 2002, p. 1414, § 4; Ga. L. 2015, p. 83, § 6/HB 353.)

The 2015 amendment, effective July 1, 2015, rewrote subsection (b); and deleted former subsection (f), which read: "In lieu of the surety bond provided for in subsections (a) and (b) of this Code section, the commission by rule or regulation may authorize the executive director to

accept a property bond when a principal of the nonpublic postsecondary educational institution owns property within the State of Georgia with sufficient equity therein to satisfy the requirements of subsection (b) of this Code section."

20-3-250.14. Filing complaint against institution or agent.

(a) Any person claiming damage or loss as a result of any act or practice by a nonpublic postsecondary educational institution or its agent, or both, which is a violation of this part or of the rules and regulations promulgated pursuant thereto may file with the executive director a complaint against such institution or against its agent, or both. A complaint shall be filed with the executive director within a reasonable period of time, as determined by regulations of the commission, after the event giving rise to the complaint. The complaint shall set forth the alleged violation and shall contain such other information as may be required by the commission. A complaint may also be filed with the executive director by the commission's representatives or by the Attorney General. A complainant may also file with the executive director as a representative of a class of complainants.

(b) The executive director shall investigate any such complaint and may, at his or her discretion, attempt to effectuate a settlement by persuasion and conciliation. The executive director shall consider a complaint pursuant to rules, regulations, and procedures promulgated by the commission.

(c) If, based upon all the evidence at a hearing or other procedure, the executive director shall find that a nonpublic postsecondary educa-

tional institution or its agent, or both, have engaged in or are engaging in any act or practice which violates this part or the rules and regulations promulgated pursuant thereto, the executive director shall issue and cause to be served upon such institution or agent, or both, an order requiring such institution or agent, or both, to cease and desist from such act or practice. Additionally, if the executive director shall find that the complainant or class of complainants has suffered loss or damage as a result of such act or practice, the executive director may, at his or her discretion, award the complainant or class of complainants full or partial restitution for such damage or loss and may impose the penalties provided for in Code Section 20-3-250.21. The executive director may also, as appropriate, based on his or her own investigation or the evidence adduced at such hearing or on the basis of such investigation and evidence, commence an action to revoke an institution's authorization to operate or revoke an agent's permit. (Code 1981, § 20-3-250.14, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 1991, p. 687, § 5; Ga. L. 2000, p. 1589, § 3; Ga. L. 2015, p. 83, § 7/HB 353.)

The 2015 amendment, effective July 1, 2015, deleted "verified" following "director a" near the end of the first sentence of subsection (a); in subsection (b), inserted "or her" near the middle of the first sentence, substituted the present provisions of the second sentence for the former provisions, which read: "The executive director may consider a complaint after ten days' written notice sent by registered or certified mail or statutory overnight delivery, return receipt requested, to such in-

stitution or to such agent, or both, as appropriate, giving notice of a time and place for hearing thereon.", and deleted the last sentence, which read: "Such hearing shall be conducted in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'"; and, in subsection (c), inserted "or other procedure" in the first sentence, and inserted "or her" in the middle of the second sentence and near the beginning of the last sentence.

20-3-250.15. Hearing and review by commission of denial of permit.

(a) Any person aggrieved by a decision of the executive director respecting denial of an authorization to operate or of an agent's permit or the placing of conditions thereon, whether on initial application or on application for renewal, or by a decision of the executive director revoking an institution's authorization to operate or an agent's permit and any person aggrieved by the imposition of a penalty by the executive director under Code Section 20-3-250.21 shall have the right to a hearing and review of such decision by the commission as provided in this Code section.

(b) If, upon written notification of any such action taken by the executive director, the aggrieved party desires a hearing and review, such party shall notify the executive director, in writing, within ten days after the giving of notice of such action; otherwise such action shall be deemed final.

(c) Upon receiving such notice from the aggrieved party, the executive director, after consultation with the commission, shall within 30 days fix the time and place for a hearing by the commission and shall notify the aggrieved party thereof.

(d) At such hearing the party may employ counsel, shall have the right to hear the evidence upon which the action is based, and may present evidence in opposition or in extenuation. The commission as a whole may conduct such hearing and render a decision or the commission may appoint a hearing officer to conduct such hearing and render a decision on behalf of the commission. Such hearing officer may be a member of the commission or any other person, other than the executive director or his or her staff, as designated by the commission. The commission by rules and regulations shall provide for the rules of evidence and order and procedure which is to be followed for such hearings. Any member of the commission may participate in such hearing pursuant to this part except where a clear conflict of interest may be designated.

(e) A decision of the commission following a hearing, or on expiration of the time for demand of a hearing if no such demand is filed, shall be deemed final, subject to the right of judicial review provided for by Code Section 20-3-250.16. All matters presented by hearing as provided in this Code section shall be acted upon promptly by the commission, and the commission shall notify all parties in writing of its decision, which shall include a statement of findings and conclusions upon all material issues of fact, law, or discretion presented at the hearing and the appropriate rule, order, sanction, relief, or denial thereof. (Code 1981, § 20-3-250.15, enacted by Ga. L. 1990, p. 1166, § 3; Ga. L. 2015, p. 83, § 8/HB 353.)

The 2015 amendment, effective July 1, 2015, in subsection (c), inserted “within 30 days”, and deleted “within 30 days” following “by the commission” near the end; and, in subsection (d), added the second through fifth sentences, and deleted the former last two sentences, which

read: “The hearing shall be conducted in accordance with Chapter 13 of Title 50, the ‘Georgia Administrative Procedure Act.’ Any member of the commission may preside except where a clear conflict of interest may be demonstrated.”

20-3-250.27. Tuition Guaranty Trust Fund.

(a) It is the purpose of this Code section to create a trust fund from participation fees from postsecondary educational institutions to enable such institutions, collectively, to protect students against financial loss when a postsecondary educational institution closes without reimbursing its students and without completing its educational obligations to its students and to provide consumer information, as necessary in the determination of the commission, to prospective and currently enrolled students.

(b)(1) Effective on July 1, 1992, the Tuition Guaranty Trust Fund is created. The participation fees received by the commission from postsecondary educational institutions pursuant to the provisions of subsections (c) and (d) of this Code section shall be deposited in a special account designated "Tuition Guaranty Trust Fund" and shall be held in trust by the board of trustees provided for in paragraph (2) of this subsection for the purpose of carrying out the provisions of this Code section. The money in the fund may be invested by said board of trustees in any bonds and other securities of agencies of the government of the United States and bonds and other securities of state and local governments. The earnings from such investments shall be deposited to the credit of the Tuition Guaranty Trust Fund and shall be available for the same purposes as other money deposited in the fund.

(2) The fund shall be administered by the Board of Trustees of the Tuition Guaranty Trust Fund. The board of trustees shall consist of five members of the commission designated by majority vote of the commission, but one of such members shall be a representative of a nonpublic nondegree-granting postsecondary educational institution, and one of such members shall be a representative of a nonpublic degree-granting postsecondary educational institution. The five members of the commission who are so designated shall serve for such terms of office as members of the board as the commission shall establish by rule or regulation. The commission shall appoint one of the members so designated as chairman of the board. The executive director shall also serve as executive director and secretary of the board. Three members of the board must vote in agreement in order for the board to take official action. The commission may by rule or regulation provide for another member of the commission to serve in the place of a member of the board who is absent from a meeting of the board.

(c)(1) All postsecondary educational institutions operating in this state, except those which are exempt from the provisions of this Code section pursuant to Code Section 20-3-250.3, shall participate in the tuition guaranty fund. Those postsecondary educational institutions specified in paragraphs (10) and (15) of subsection (a) of Code Section 20-3-250.3 and in subsection (c) of Code Section 20-3-250.3 shall participate in the tuition guaranty fund.

(2) Postsecondary educational institutions which were authorized to operate in this state prior to July 1, 1990, and which have maintained continuous authorization in this state since July 1, 1990, and institutions which have been continuously licensed since July 1, 1990, pursuant to the provisions of Title 43 and were authorized by the commission prior to July 1, 1992, shall participate in the fund and

shall not be required to provide surety bonds as provided in Code Section 20-3-250.10; provided, however, that any surety bond provided by an institution before July 1, 1992, shall remain in effect for one full year after the effective date of such surety bond.

(3) Postsecondary educational institutions which are currently authorized to operate in this state and which were first authorized to operate in this state on or after July 1, 1990, shall participate in the fund for five years of continuous authorized operation and shall provide the surety bonds required in Code Section 20-3-250.10; provided, however, that such surety bonds shall no longer be required of any such institutions which have maintained five full years of continuous authorized operation to the present. Any institution which fails to maintain continuous authorization in this state, and which subsequently applies for reinstatement of its certificate of authorization, must provide a surety bond for five full years following reinstatement of authorization.

(d)(1) In addition to any other fees required by this part, the commission shall by regulation establish fees to be paid annually by postsecondary educational institutions for participation in the tuition guaranty fund. The fees shall be based on gross tuition collected during a year by each postsecondary educational institution. If an institution has not operated for a full year, its participation fee shall be based initially on its projected gross tuition for the first full year of operation. At the conclusion of the first year, the fee for that year shall be adjusted to reflect actual gross tuition. The annual fee established by the commission shall be sufficient, when added to the earnings of the fund, to create a balance in the fund of at least \$500,000.00 by July 1, 1997. The board of trustees shall notify the commission when the fund balance exceeds \$500,000.00, and, except as otherwise provided in paragraph (2) of this subsection, upon receiving such notification, the commission shall cease collection of participation fees from postsecondary educational institutions which have contributed to the fund for at least five years. The commission, upon notification from the board of trustees, shall reestablish collection of participation fees from such participating postsecondary educational institutions at any time the fund balance is less than \$475,000.00. At such time, fees shall be collected from such participating institutions according to a schedule adopted by the commission based on gross tuition in amounts sufficient to raise the fund balance to \$500,000.00.

(2) Each postsecondary educational institution which is first authorized to operate in this state after July 1, 1992, and is required to participate in the fund for five years of continuous authorized operation under the provisions of paragraph (3) of subsection (c) of this Code section shall be required to pay participation fees for such

period of time notwithstanding the amount in the tuition guaranty fund. If the balance in the fund exceeds \$500,000.00, participation fees shall be collected from each such institution according to the fee schedule adopted by the commission pursuant to paragraph (1) of this subsection.

(3) If earnings from investments, participation fees required under paragraph (2) of this subsection, and claims experience ever cause the balance in the fund to exceed \$7,750,000.00, the commission, upon being notified by the board of trustees, shall make refunds to postsecondary educational institutions which have participated in the fund for at least five years, so that the fund balance is reduced to \$7.5 million. Any such refund shall be determined by the commission in proportion to the total participation fees paid by a postsecondary educational institution until the time of the refund; provided, however, no reimbursement shall be made to any postsecondary educational institution whose students have been reimbursed from the fund or from bond forfeiture as provided in subsection (g) of this Code section. The commission shall establish by regulation the time and other procedures and requirements for making any such refund, but refunds shall be issued no more than once during a fiscal year.

(e) The annual cost incurred by the commission and by the board of trustees in administering the Tuition Guaranty Trust Fund and providing consumer information as necessary for prospective and currently enrolled students, including expenses incurred in collecting from defaulting postsecondary educational institutions the amounts paid from the fund to or on behalf of students pursuant to the provisions of subsection (g) of this Code section, shall be paid from the fund; provided, however, such annual administrative costs shall not exceed 2.5 percent of the fund during the fiscal year. The commission shall issue a report annually to each postsecondary educational institution participating in the fund. The report shall provide an evaluation of the financial condition of the fund and a summary of claims paid or other expenditures from the fund during the immediately preceding fiscal year.

(f) The commission shall establish by regulation a late payment fee for the failure of a postsecondary educational institution to pay its participation fee at the time established by regulation of the commission for the payment of such fees. An application for authorization to operate or for the renewal thereof may be denied under Code Section 20-3-250.12 for failure to pay participation fees. Late payment fees shall be paid into the fund. Any authorization to operate may be revoked, suspended, or made conditional under Code Section 20-3-250.13 for failure to pay participation fees.

(g)(1) Except as otherwise provided in paragraph (2) of this subsection, in the event a postsecondary educational institution participat-

ing in the fund goes into bankruptcy or ceases operations without fulfilling its educational obligations to its students or without reimbursing its students, the board of trustees may reimburse from the fund valid claims of students for tuition paid to that institution in accordance with guidelines and procedures adopted by regulations of the board. If a student who attended the defaulting postsecondary educational institution received financial aid under either a state or federal student loan program, the board shall direct payment to the financial institution or other entity who made the loan to the student, rather than directly to the student. If the fund reimburses a student or a financial institution or other entity which made a loan to a student, the fund, to the extent of the amount reimbursed and without the necessity of any further act by any party, shall have an independent claim for recovery against the defaulting postsecondary educational institution and any surety issuing a bond pursuant to Code Section 20-3-250.10; provided, however, that if the reimbursement from the fund is insufficient fully to cover the amount due the student or the entity making the loan to the student, then such student or entity shall retain the right of recovery against the defaulting institution and the surety for the unreimbursed amount. Payments from the fund shall be made by warrant of the state treasurer on the order of the board of trustees.

(2) Until surety bonds are no longer required of a participating postsecondary educational institution under the provisions of paragraph (3) of subsection (c) of this Code section, the reimbursement of tuition to students or to financial institutions or other entities on behalf of students, in the event of the default of the postsecondary educational institution, shall be accomplished by bond forfeiture proceedings and not from the tuition guaranty fund unless the full amount of the bond is paid in reimbursements and such amount is insufficient to cover all reimbursements; provided, however, that if a student, financial institution, or other lending entity is entitled to reimbursement of tuition paid for a term which concluded before the expiration of the surety bond, the Tuition Guaranty Trust Fund may make reimbursements to the students or to the financial institutions or other entities on behalf of the students prior to initiating bond forfeiture proceedings.

(3) If the board of trustees pays a claim to or on behalf of a student of a defaulting postsecondary educational institution or if such a claim is paid as a result of a bond forfeiture, the authorization to operate of the defaulting postsecondary educational institution shall be automatically revoked as of the date of such payment, if the authorization to operate has not been previously revoked by the commission pursuant to other provisions of this part. If a defaulting postsecondary educational institution reimburses the fund for any

claims paid on behalf of its students, the commission shall be authorized to issue a new authorization to operate to such postsecondary educational institution if the commission finds that the institution is then qualified to operate as a postsecondary educational institution. Such an institution shall provide the surety bond required in Code Section 20-3-250.10 for two years and shall pay participation fees to the tuition guaranty fund for five years as provided in paragraph (2) of subsection (d) of this Code section.

(4) If at any time the money available in the tuition guaranty fund is insufficient to satisfy tuition reimbursement claims then pending against the fund, the board of trustees may require each participating postsecondary educational institution to pay a special assessment to the fund. The special assessment shall be in addition to the participation fee provided for in paragraph (1) of subsection (d) of this Code section but the total amount which may be collected in such special assessments in any one fiscal year shall not exceed either the total amount paid during the immediately preceding fiscal year in participation fees or \$100,000.00, whichever is greater. The maximum amount that may be paid from the fund in claims on behalf of the students of any single defaulting postsecondary educational institution is \$250,000.00, regardless of the fact that total claims may exceed that amount.

(5) As an alternative to paying claims to or on behalf of students of a defaulting postsecondary educational institution, the board of trustees may arrange for another postsecondary educational institution to complete the educational obligations to the students of the defaulting postsecondary educational institution, provided that the program offered by the other institution is substantially equivalent to the program for which the students had paid tuition and provided, further, that attendance at the other institution does not cause unreasonable hardship or inconvenience to the students. The commission shall have the authority to adopt rules or regulations which shall govern the board of trustees in the administration of the provisions of this paragraph. As a part of any such program, the board of trustees may reimburse the other postsecondary educational institution from the fund for expenses incurred by the institution in providing educational services for the students of the defaulting postsecondary educational institution. The Tuition Guaranty Trust Fund shall have an independent claim for recovery against the defaulting postsecondary educational institution and any surety issuing a bond pursuant to Code Section 20-3-250.10 to the extent that the fund has reimbursed a postsecondary educational institution from the fund for expenses pursuant to this paragraph and without the necessity of any further act by any party.

(6) It shall not be necessary to claim a loss or damage pursuant to the provisions of Code Section 20-3-250.14 in order for the board of

trustees to pay claims to or on behalf of students pursuant to the provisions of this Code section. Procedures and requirements for filing claims under this Code section shall be as provided by rules or regulations adopted for that purpose by the commission.

(7) Any person aggrieved by a decision of the board of trustees to pay or deny a claim pursuant to the provisions of this Code section may appeal to the commission. A decision of the board of trustees shall be in writing and shall be sent by certified mail or statutory overnight delivery to the claimant and to the owner of the defaulting postsecondary educational institution. If the whereabouts of the owner of the defaulting postsecondary educational institution is not known and cannot reasonably be ascertained by the board of trustees, a notice of the decision shall be published in the legal organ of the county where the student claimant attended the defaulting postsecondary educational institution or a facility of such institution. The appeal to the commission shall be commenced by filing a written notice of such appeal to the commission within 30 days after receiving the written decision of the board of trustees. Within 30 days after receiving a notice of appeal, the commission shall affirm the decision of the board of trustees, modify and affirm the decision of the board of trustees, or overrule the decision of the board of trustees. Any person aggrieved by the action of the commission shall have the right to judicial review pursuant to the provisions of Code Section 20-3-250.16. The commission shall adopt rules or regulations providing procedures for the conduct of appeals from the board of trustees, but such rules or regulations shall be consistent with the provisions of this paragraph.

(h) The board of trustees shall issue a biennial report to the Governor and members of the General Assembly providing a summary of the financial condition of the fund and claims experience during the preceding biennium. Such reports shall be issued during the regular session of the General Assembly held during each even-numbered year beginning in 1994.

(i) The tuition guaranty fund shall be exempt from all license fees or income, franchise, privilege, occupation, or other taxes levied or assessed by the state or by any county, municipality, or other political subdivision of the state. Any payment of claims or refund of participation fees from the tuition guaranty fund shall not be exempt from taxation unless such payment or refund is exempt from taxation pursuant to the provisions of law independent of the provisions of this part. (Code 1981, § 20-3-250.27, enacted by Ga. L. 1992, p. 2615, § 4; Ga. L. 1993, p. 1402, § 18; Ga. L. 1994, p. 1282, § 11; Ga. L. 1995, p. 10, § 20; Ga. L. 2000, p. 1589, § 3; Ga. L. 2002, p. 1414, § 5; Ga. L. 2010, p. 863, § 3/SB 296; Ga. L. 2015, p. 83, § 9/HB 353.)

The 2015 amendment, effective July 1, 2015, added “and to provide consumer information, as necessary in the determination of the commission, to prospective and currently enrolled students” at the end of subsection (a); in the first sentence of paragraph (d)(3), substituted “\$7,750,000.00” for “\$5,025,000.00” in the middle, and substituted “\$7.5 million” for

“\$5 million” at the end; and, in the first sentence of subsection (e), inserted “and providing consumer information as necessary for prospective and currently enrolled students” near the beginning, and substituted “fund” for “participation fees collected from postsecondary educational institutions” near the end.

PART 2

GEORGIA HIGHER EDUCATION ASSISTANCE CORPORATION

20-3-264. Functions and composition of board of directors; organization and conduct of affairs.

(a) **Functions and composition.** The corporation shall be governed and all of its corporate powers, duties, and functions shall be exercised by a board of directors. The board of directors shall be composed of the same persons who are serving as members of the board of commissioners of the commission pursuant to Code Section 20-3-234. The executive director of the corporation, or president, if designated by such title by the board of directors, shall be an ex officio member of the board of directors. The board of directors provided for by this subsection shall be the successor to and a continuation of, without interruption, the board of directors of the previously existing Georgia Higher Education Assistance Corporation. No director shall be eligible to become an officer or employee of the corporation for a period of one year after expiration of the director’s period of service as a director of the corporation.

(b) **Organization and conduct of affairs.** Subsections (c) through (h) of Code Section 20-3-234, pertaining to the commission and relative to officers of the board of commissioners, meetings of the board of commissioners executive committee, other committees, compensation of commissioners, and advisory councils, inclusively, are incorporated by reference into this subsection and shall apply to the board of directors in the same manner as if fully set out, with conformable language, in this subsection. The board of directors shall organize and conduct its affairs in accordance with such provisions of law; provided, however:

(1) That nothing in this subsection shall be construed to mean that the board of directors must elect the same persons to serve as officers of the board of directors as are elected by the board of commissioners of the commission to serve as officers of the board of commissioners;

(2) That no person serving as a public commissioner of the commission and thereby as a director of the corporation shall receive

more than one day's per diem, plus actual expenses incurred, for one day's service or portion thereof rendered to the state; and

(3) That the limitation as to the number of days during any fiscal year that a per diem may be paid to a public commissioner of the commission shall be inclusive of services rendered by such person as a director of the corporation. (Code 1933, § 32-3305, enacted by Ga. L. 1980, p. 835, § 2; Ga. L. 2003, p. 158, § 2; Ga. L. 2014, p. 801, § 2/HB 697.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the second sentence, deleted "13 members, who shall be" following "composed of" and deleted "and who shall serve" following "who are serving".

20-3-266. Powers and duties of the corporation; conflicts with federal or state law; confidentiality.

(a) In addition to all other provisions of this part and in furtherance of the purposes of the corporation, the corporation shall have the following powers, duties, and functions:

(1) The corporation shall establish and administer a program of guaranteed educational loans to eligible students and eligible parents, to be known as the Georgia Higher Education Loan Program, in accordance with this part and the federal act; and pursuant thereto, the corporation is further authorized:

(A) To adopt rules, regulations, and policies necessary, appropriate, or convenient for the administration of its affairs; the execution of its powers, duties, and functions; and the accomplishment of its corporate purposes, as prescribed in this part and the federal act;

(B) To receive all moneys made available by the General Assembly or otherwise for the purposes of the corporation and to use such moneys in accordance with this part and the federal act;

(C) To enter into agreements and undertakings with the secretary, including guaranty agreements and supplemental guaranty agreements as described in the federal act, as may be required and necessary pursuant to the federal act in order to administer the program in this state, to provide for reimbursement by the secretary of amounts expended by the corporation in discharge of its guaranty obligations, to provide for the payment of federal interest subsidies and special allowance payments in respect of educational loans guaranteed by the corporation, and to provide for its receipt, or receipt by the holders of educational loans guaranteed by the corporation, of administrative allowances and other benefits available under the federal act; and the corporation is expressly autho-

rized to constitute, conduct, regulate, and administer the program so that such program conforms to the specifications for state educational loan guarantee programs set forth in the federal act and in rules and regulations promulgated pursuant to the federal act and so that the provisions for agreements between the secretary and state guaranty agencies set forth in the federal act and in rules and regulations promulgated pursuant to the federal act may be agreed to and complied with by the corporation;

(D) To adopt rules and regulations pertaining to guaranteed educational loans and loan guaranties;

(E) To provide and issue loan guaranties evidencing the guaranty, upon such terms and conditions as the corporation may prescribe within limitations provided by this part and the federal act, of educational loans to be made by lenders, except that no loan guaranty shall be issued unless the educational loan to be made shall be the subject of agreements under the federal act providing for reimbursement by the secretary of amounts expended by the corporation to discharge any guaranty obligation in respect of the loan guaranty to the maximum extent available at the time under the federal act;

(F) To administer federal funds allotted to the corporation or to the state in respect of educational loans guaranteed under the federal act, related matters, and related administrative costs;

(G) To enter into contracts and agreements with lenders upon such terms and conditions as may be prescribed by the corporation or otherwise agreed upon between the corporation and the lender, consistent with this part, the federal act, and agreements entered into between the corporation and the secretary;

(H) To provide for lenders obtaining a comaker, cosigner, or endorser on loans, subject to limitations prescribed in the federal act;

(I) To provide for additional security on loans, subject to limitations prescribed in the federal act;

(J) To provide for the consolidation of promissory notes evidencing loans guaranteed under this part without affecting the guaranty of the corporation thereon;

(K) To enter into contracts and agreements with schools upon such terms and conditions as may be prescribed by the corporation or otherwise agreed upon between the corporation and the school, consistent with this part, the federal act, and agreements entered into between the corporation and the secretary;

(L) To require that schools located in the state shall designate one or more persons who shall be responsible for receiving and controlling and disbursing or delivering, as the case may be, student aid checks or funds that are required to be or which may optionally be disbursed to, delivered to, or otherwise provided to the school under this part for further disbursement or delivery to students enrolled therein, and to provide for matters relative thereto;

(M) To require, in its discretion, that schools located in this state or, with approval of the corporation, a combination thereof jointly shall provide fidelity bond coverage of school employees who have access to checks or funds that may be routed through the school under this part to students enrolled therein in such sums and conditioned in such respects as to the insured as may be reasonably necessary to protect the interests of the corporation and the lenders and to provide for matters relative thereto;

(N) To limit the applicability of designated rules and regulations to schools located within this state, or within this state and states bordering on this state, in that the majority of students for whom loans are guaranteed under this part are attending schools located within such states;

(O) To provide for the application of school refunds to educational loan indebtedness incurred under this part, consistent with the requirements of any other federal or state law, rule, or regulation which provides financial aid to students and for the application of school refunds relative to those programs;

(P) To approve, disapprove, limit, suspend, or terminate the participation of a school or a lender in the program administered by the corporation, consistent with this part, the federal act, and agreements entered into between the corporation and the secretary, and to provide for such formal and informal procedures in regard thereto as may be appropriate;

(Q) To collect from borrowers, comakers, cosigners, or endorsers all amounts owed in respect of educational loans on which the corporation has been required to meet its loan guaranty obligation following the inability of the holders of such loans to collect such amounts and to provide for all matters relative thereto;

(R) To provide for the classification of loans purchased from lenders in accordance with the status of borrowers and the current apparent collectability status of such loans from borrowers; and, consistent with the federal act and with the approval of the secretary whenever such approval is required, to consent to the modification of the terms of a note; and to compromise, satisfy, and

settle loan amounts due, as to which federal reinsurance payment has been received by the corporation, for less than the amount due thereon; and to waive or release any right, title, claim, equity, lien, or demand relative to a borrower or to any asset, however acquired, whenever deemed to be necessary or best protective of the financial interests of the corporation and the United States; provided, however, that no claim or right of the corporation to payment of any amount due which is the result of an expenditure made by the corporation from funds appropriated by the General Assembly for use by the corporation may be compromised, satisfied, settled, waived, or released for less than the principal amount due without the approval of the Attorney General;

(S) To require that reports, in such form and containing such information as the corporation may prescribe, be furnished to the corporation by schools and lenders as it may deem necessary for the effective performance of its powers, duties, and functions under this part and the federal act;

(T) To prescribe minimum information that must be included in any oral or printed information, announcement, communication, or material that is:

(i) Published or otherwise disseminated by, for, or on behalf of a lender relative to educational loans provided for in this part; or

(ii) Published or otherwise disseminated by any person, corporation, association, partnership, or other organization engaged in this state in the business of providing to students or parents of students, in consideration of the receipt therefor of a fee, commission, charge, or other valuable consideration from any source, contingent or otherwise, information about, or assistance in, applying for or obtaining educational loan assistance under this part;

(U) To require that such administrative and fiscal procedures be used by the corporation, lenders, and schools as may be necessary to protect the corporation and the United States from the risk of unreasonable loss and to ensure proper and effective administration of the program;

(V) To keep and maintain, and to require that lenders and schools keep and maintain, such records as may be required by this part, the federal act, or determined by the corporation to be necessary for the proper and efficient administration of the program and to require that such records be made available to employees of the corporation and the United States for examination and inspection, as may be necessary or appropriate;

(W) To secure data, except where specifically prohibited by state or federal law, from any state agency, department, instrumentality,

political subdivision of the state, or any other source, for the purpose of verifying information submitted by a student or a parent when applying for or receiving educational loan assistance under this part and to pay costs incurred by the provider of such data;

(X) Except where specifically prohibited by state or federal law, to obtain from each state agency, department, instrumentality, and political subdivision information contained in its records relative to the present or last known address and telephone number of a borrower, comaker, cosigner, or endorser, identified to the provider by name and social security number, and to pay costs incurred by the provider of such information; and each state agency, department, instrumentality, and political subdivision is authorized and directed to provide the information specified in this subparagraph to the corporation upon its request;

(Y) To restrict or broaden definitions and provisions contained in this part and the federal act, consistent, however, with limitations imposed by the federal act. By reason of legislative intent expressed in Code Section 7-1-626, the corporation is authorized, notwithstanding other provisions of this part, to broaden the terms “student” and “eligible student,” as defined in paragraph (21) of Code Section 20-3-262, to include a student who is not a resident of this state, provided the participating lender is actively making loans under this part to residents of this state, but no state appropriated funds shall be expended relative to loans made to such a student or to the parent of such a student for the purposes prescribed in subparagraph (E) of this paragraph and in Code Sections 20-3-273 and 20-3-274;

(Z) To provide for and administer an educational loan escrow disbursement system for the benefit and protection of lenders, students, the corporation, and the United States and to provide for all matters relative thereto, consistent with the federal act;

(AA) To gather information on all educational loan funds available from any source to residents of the state and to disseminate such information through such methods of mass or individual communication as may be necessary better to assure that students and parents are aware of the availability of such loan resources;

(AA.1) To advertise or otherwise promote the programs, functions, and purposes of the corporation and to expend funds available to the corporation for such purposes;

(BB) To receive funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to hold, use, administer, and expend such funds on its behalf and for any of its corporate purposes; and to acquire from any source,

public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold, use, administer, and dispose of such property on its behalf and for any of its corporate purposes;

(CC) To provide procedures for the filing, hearing, and determination of an appeal made by an aggrieved party of a decision made by the corporation in the administration of the program, and for all matters relative thereto;

(DD) To enter into agreements and undertakings as may be necessary or appropriate in the exercise of its powers, duties, and functions under this part and the federal act;

(EE) To perform such other acts as may be necessary or appropriate to carry out effectively the purposes of the corporation under this part and the federal act;

(FF) To adopt an official seal and alter the seal at its pleasure;

(GG) To maintain a principal office and such other offices as may be appropriate;

(HH) To adopt bylaws and policies for the regulation of its affairs and the conduct of its business;

(II) To bring and defend actions in the name of the corporation and to plead and be impleaded; and

(JJ) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the public purposes of the corporation or the Constitution and laws of this state, including, but not limited to:

(i) The power to retain accounting and other financial services;

(ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;

(iii) The power to indemnify and hold harmless any parties contracting with the corporation or its agents from damage to persons or property; and

(iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves;

(2) The corporation shall have the power to service or contract for the servicing of educational loans, including the servicing of such

loans by the corporation on behalf of others, to contract in advance for the servicing of educational loans, and to contract for the performance by the corporation of any portion of the program;

(3) All provisions of this part to the contrary notwithstanding, the corporation is authorized to guarantee service cancelable loans made to students by the authority pursuant to paragraph (1) of subsection (b) of Code Section 20-3-374 even if such loans do not meet all requirements of the federal act. In this event, conditions prescribed by the corporation for the guarantee of such loans shall, to the maximum extent deemed practicable, be the same as otherwise prescribed in this part relative to loans guaranteed by the corporation pursuant to the federal act;

(4) Each applicant who, as of the date of application for financial assistance under this part, is required but has not registered with the Selective Service System of the United States pursuant to 50 U.S.C. Section 453, as amended, shall be ineligible to receive financial assistance under this part. Each applicant shall, under penalty of perjury, certify compliance or noncompliance with the registration requirements of the Military Selective Service Act of the United States and provide such other information as the corporation may reasonably require;

(5) If any conflict exists between this part and the federal act or any rules or regulations promulgated under the federal act, which conflict will result in a loss by the corporation of any federal funds or other funds that would otherwise be available to it for carrying out its purposes under this part, including, but not by way of limitation, federal and other funds available to the corporation under the federal act as administrative cost allowances; as retainage of a portion of moneys collected from borrowers, comakers, cosigners, endorsers, or others on guaranteed loans purchased from lenders or holders by the corporation; and as reimbursement for amounts paid by the corporation in the discharge of its guaranty obligations, the corporation is authorized, empowered, and directed to adopt appropriate rules, regulations, and policies, consistent with the federal act, to remove such conflict and thereby to provide for the receipt or retainage of such funds; provided, however, that such rules, regulations, or policies are not in derogation of the Constitution or laws of the state, other than this part, or any contract to which the corporation is a party and are wholly in conformity with the purposes of the corporation as set forth in this part; and

(6) To the extent that this part is inconsistent with any other general or special law of the state or with any rule or regulation, this part shall be controlling.

(b) Pursuant to Code Section 50-18-70, the corporation shall not disclose and shall keep confidential, in each case unless identifying information has been redacted:

(1) Records that include information identifying a student or former student by name, address except for ZIP Code, telephone number, or emergency contact; and

(2) Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, or month and day of birth. (Code 1933, § 32-3307, enacted by Ga. L. 1980, p. 835, § 2; Ga. L. 1981, p. 735, §§ 11-20; Ga. L. 1982, p. 3, § 20; Ga. L. 1986, p. 759, § 1; Ga. L. 1987, p. 378, § 1; Ga. L. 1987, p. 1119, § 1; Ga. L. 1992, p. 1001, §§ 2, 3; Ga. L. 1995, p. 961, § 4; Ga. L. 1997, p. 143, § 20; Ga. L. 2005, p. 1134, § 1/HB 298; Ga. L. 2015, p. 935, § 2/HB 320.)

The 2015 amendment, effective July 1, 2015, designated the existing provisions of this Code section as subsection (a) and added subsection (b).

PART 3

GEORGIA STUDENT FINANCE AUTHORITY

Subpart 1

General Provisions

20-3-314. Functions, composition, organization, and conduct of affairs of board of directors.

(a) **Functions and composition.** The authority shall be governed and all of its corporate powers, duties, and functions shall be exercised by a board of directors. The board of directors shall be composed of the same persons who are serving as members of the board of commissioners of the commission pursuant to Code Section 20-3-234. The executive director of the authority, or president, if designated by such title by the board of directors, shall be an ex officio member of the board of directors. The board of directors provided for by this subsection shall be the successor to and a continuation of, without interruption, the board of directors of the previously existing Georgia Higher Education Assistance Authority. No director shall be eligible to become an officer or employee of the authority for a period of one year after expiration of the director's period of service as a director of the authority.

(b) **Organization and conduct of affairs.** Subsections (c) through (h) of Code Section 20-3-234, pertaining to the commission and relative to officers of the board of commissioners, meetings of the board of commissioners, executive committee, other committees, compensation of commissioners, and advisory councils, inclusively, are incorporated by reference into this subsection and shall apply to the board of directors in the same manner as if fully set out, with conformable language, in this subsection. The board of directors shall organize and conduct its affairs in accordance with such provisions of law; provided, however:

(1) That nothing in this Code section shall be construed to mean that the board of directors must elect the same persons to serve as officers of the board of directors as are elected by the board of commissioners of the commission to serve as officers of the board of commissioners;

(2) That no person serving as a public commissioner of the commission and thereby as a director of the authority shall receive more than one day's per diem plus actual expenses incurred for one day's service or portion thereof rendered to the state; and

(3) That the limitation as to the number of days during any fiscal year that per diem may be paid to a public commissioner of the commission shall be inclusive of services rendered by such person as a director of the authority. (Ga. L. 1969, p. 683, § 4; Ga. L. 1971, p. 518, § 1; Code 1933, § 32-3705, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2003, p. 158, § 5; Ga. L. 2014, p. 801, § 3/HB 697.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the second sentence, deleted "13 members, who shall be" following "composed of" and deleted "and who shall serve" following "who are serving".

20-3-316. Powers and duties of authority; employees' functions; servicing of educational loans; registration with Selective Service System; conflicts with federal or other state law; confidentiality.

(a) In addition to all other provisions of this part as set forth in each subpart of this part and in furtherance of the purposes of the authority, the authority shall have the following general powers, duties, and functions:

(1) The authority shall establish and administer each student assistance program provided for in the respective subparts of this part in accordance with the provisions of this part. Pursuant thereto, the authority is further authorized:

(A) To adopt rules, regulations, and policies necessary, appropriate, or convenient for the administration of its affairs; the execu-

tion of its powers, duties, and functions; and the accomplishment of its corporate purposes, as prescribed in each subpart of this part;

(B) To receive all moneys made available by the General Assembly or otherwise for the purposes of the authority and to use such moneys in accordance with the subparts of this part;

(C) To administer federal funds allotted to the authority or to the state for use by the authority in respect of student financial aid programs provided for in federal laws, related matters, and related administrative costs;

(D) To enter into contracts and agreements with schools upon such terms and conditions as may be prescribed by the authority or otherwise agreed upon between the authority and the school, not inconsistent with this part, applicable state or federal law, or agreements entered into between the authority and any federal or state agency;

(E) To require that schools located in the state shall designate one or more persons who shall be responsible for receiving and controlling and disbursing, delivering, or crediting to accounts, as the case may be, student aid checks or funds that are required to be or which may optionally be disbursed to, delivered to, or otherwise provided to the school under this part, for further disbursement, delivery, or credit to the account of students enrolled therein; and to provide for matters relative thereto;

(F) To require that schools located in the state or, with approval of the authority, a combination of schools jointly shall provide fidelity bond coverage of school employees who have access to checks or funds that may be routed through the school under this part to students enrolled therein, in such sums and conditioned in such respects and as to the insured as may be reasonably necessary to protect the interests of the authority; and to provide for matters relative thereto;

(G) To provide for remittance to and proper application by the authority of school refunds to students who are recipients of financial assistance provided by the authority under this part, consistent with the requirements of any other federal or state law, rule, or regulation which provides financial aid to students; and to provide for the application of school refunds relative to those programs;

(H) To limit, suspend, or terminate the participation of a school in any financial assistance program administered by the authority, in accordance with rules and regulations of the authority that are consistent with this part, applicable state or federal laws, and

agreements entered into between the authority and the school or any federal or state agency; and to provide for such formal and informal procedures in regard thereto as may be appropriate;

(I) To require that reports, in such form and containing such information as the authority may prescribe, be furnished to the authority by schools as it may deem necessary for the effective performance of its powers, duties, and functions under this part;

(J) To require that such administrative and fiscal procedures be used by the authority and schools as may be necessary to protect the financial interests of the authority and to ensure proper and effective administration of programs administered by the authority;

(K) To keep and maintain, and to require that schools keep and maintain, such records as may be determined to be necessary for proper and efficient administration of the programs under this part; and to require that such school records be made available to employees of the authority for examination and inspection as may be necessary or appropriate;

(L) To secure data, except where specifically prohibited by state or federal law, from any state agency, department, instrumentality, political subdivision of the state, or any other source, for the purpose of verifying information submitted by a student or a parent when applying for or receiving any financial assistance provided by the authority under this part; and to pay costs incurred by the provider of such data;

(M) Except where specifically prohibited by state or federal law, to obtain from each state agency, department, instrumentality, and political subdivision information contained in its records relative to the present or last known address and telephone number of a borrower, comaker, cosigner, or endorser, identified to the provider by name and social security number, and to pay costs incurred by the provider of such information; and each state agency, department, instrumentality, and political subdivision is authorized and directed to provide the information specified in this subparagraph to the authority upon its request;

(N) To gather information on all educational financial assistance funds available from any source to residents of the state and to disseminate such information through such methods of mass or individual communication as may be necessary better to assure that students and parents are aware of the availability of such financial resources;

(N.1) To advertise or otherwise promote the programs, functions, and purposes of the authority and to expend funds available to the authority for such purposes;

(O) To solicit, receive, and accept funds from any source, public or private, by gift, grant, bequest, loan, or otherwise, either absolutely or in trust, and to hold, use, administer, and expend such funds on its behalf and for any of its corporate purposes; and to acquire from any source, public or private, by purchase, lease, gift, bequest, or devise, any property, real, personal, or mixed, either absolutely or in trust, and to hold, use, administer, and dispose of such property on its behalf and for any of its corporate purposes;

(P) To provide procedures for the filing, hearing, and determination of an appeal made by an aggrieved party of a decision made by the authority in the administration of financial assistance programs provided for in this part and for all matters relative thereto;

(Q) To enter into agreements and undertakings as may be necessary or appropriate in the exercise of its powers, duties, and functions under this part;

(R) To perform such other acts as may be necessary or appropriate to carry out effectively the purposes of the authority under this part;

(S) To adopt an official seal and alter the seal at its pleasure;

(T) To maintain a principal office and such other offices as may be appropriate;

(U) To adopt bylaws and policies for the regulation of its affairs and the conduct of its business;

(V) To bring and defend actions in the name of the authority and to plead and be impleaded;

(W) To do any and all things necessary, desirable, convenient, or incidental for the accomplishment of the objectives of this chapter and to exercise any power usually possessed by private corporations performing similar functions which is not in conflict with the public purposes of the authority or the Constitution and laws of this state, including, but not limited to:

(i) The power to retain accounting and other financial services;

(ii) The power to purchase all kinds of insurance, including, without limitation, insurance against tort liability and against risks of damage to property;

(iii) The power to indemnify and hold harmless any parties contracting with the authority or its agents from damage to persons or property; and

(iv) The power to act as a self-insurer with respect to any loss or liability and to create insurance reserves;

(X) To appoint officers, agents, and employees, to prescribe their duties and qualifications, and to fix their compensation; and

(Y) To incorporate one or more nonprofit corporations to aid the authority in carrying out any of its powers, duties, and functions. Any such nonprofit corporation created pursuant to this subparagraph shall be a body corporate and politic and shall be created pursuant to Chapter 3 of Title 14, the "Georgia Nonprofit Corporation Code," and the Secretary of State shall be authorized to accept such filing. Upon dissolution of any such nonprofit corporation, any assets of such nonprofit corporation shall revert to the authority or to any successor to the authority, or failing such succession, to the State of Georgia. The authority shall not be liable for the debts, obligations, or bonds of any such nonprofit corporation or for the actions or omissions to act of any such nonprofit corporation unless the authority so consents;

(2) Employees of the authority may perform management, supervisory, administrative, and clerical functions required by the commission and the corporation, and the authority will be compensated for such expenses as directed by the board of commissioners;

(3) To service or contract for the servicing of educational loans, including the servicing of such loans by the authority on behalf of others, to contract in advance for the servicing of educational loans, and to contract for the performance by the authority of educational loans;

(4) Each applicant who, as of the date of application for financial assistance under this part, is required but has not registered with the Selective Service System of the United States pursuant to 50 U.S.C. Section 453, as amended, shall be ineligible to receive financial assistance under this part. Each applicant shall, under penalty of perjury, certify compliance or noncompliance with the registration requirements of the Military Selective Service Act of the United States and provide such other information as the authority may reasonably require. A person may not be denied state student financial aid by reason of failure to present himself for and submit to registration under Section 3, 50 U.S.C. Appx. Section 453, if the requirement for the person to so register has terminated or become inapplicable to the person; and the person shows by a preponderance of the evidence that the failure of the person to register was not a knowing and willful failure to register;

(5) If any conflict exists between this part and Part 2 of this article, the federal act, or other federal laws, or any rules or regulations

promulgated under the federal act, which conflict will result in a loss by the authority of any federal funds or other funds that would otherwise be available to it for carrying out its purposes under this part, the authority is authorized and directed to adopt appropriate rules, regulations, and policies, consistent with Part 2 of this article, the federal act, or such other federal laws to remove such conflict and thereby to provide for the receipt of such funds; provided, however, that such rules, regulations, or policies are not in derogation of the Constitution or laws of this state, other than this part, or any contract to which the authority is a party and are wholly in conformity with the purposes of the authority as set forth in this part; and

(6) To the extent that this part is inconsistent with any other state general or special law, rule, or regulation, other than Part 2 of this article, this part shall be controlling.

(b) Pursuant to Code Section 50-18-70, the authority shall not disclose and shall keep confidential, in each case unless identifying information has been redacted:

(1) Records that include information identifying a student or former student by name, address except for ZIP Code, telephone number, or emergency contact; and

(2) Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, or month and day of birth.

(c) Except as prohibited by federal or state law, individuals who owe any amount to the authority relating to any loan, scholarship, or grant made by the authority, including loan repayments and refunds, are, without judicial action, subject to garnishment of their pay, loss of a professional license, offset of lottery winnings, and offset of a state tax refund in accordance with rules and regulations promulgated by the authority. As used in this subsection, the term "refund" means scholarship and grant amounts paid to or on behalf of individuals, in accordance with rules and regulations promulgated by the authority, subsequently determined to be ineligible to receive such scholarship and grant amounts. The remedies set forth in this subsection shall be in addition to all other remedies available at law and in equity. (Code 1933, § 32-3707, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1981, p. 735, § 34; Ga. L. 1986, p. 759, § 2; Ga. L. 1992, p. 6, § 20; Ga. L. 1992, p. 1001, §§ 4, 5; Ga. L. 1995, p. 961, § 8; Ga. L. 1996, p. 837, §§ 3, 4; Ga. L. 2003, p. 904, § 1.1; Ga. L. 2005, p. 1134, § 2/HB 298; Ga. L. 2014, p. 801, §§ 4, 5/HB 697; Ga. L. 2015, p. 935, § 3/HB 320.)

The 2014 amendment, effective July 1, 2014, in subparagraph (1)(O), inserted “solicit,” and inserted “, and accept” near the beginning; substituted a semicolon for “; and” at the end of division (1)(W)(iv); substituted “; and” for a semicolon at the

end of subparagraph (1)(X); and added subparagraph (1)(Y).

The 2015 amendment, effective July 1, 2015, designated the existing provisions of this Code section as subsection (a) and added subsections (b) and (c).

20-3-316.1. Selection on tax form of nonprofit corporations established by the Georgia Student Finance Authority for contribution.

(a) Each Georgia income tax return form for taxable years beginning on or after January 1, 2015, shall contain appropriate language, to be determined by the state revenue commissioner, offering the taxpayer the opportunity to contribute to the nonprofit corporations established by subparagraph (Y) of paragraph (1) of Code Section 20-3-316 to assist students with educational expenses by either donating all or any part of any tax refund due and by authorizing a reduction in the refund check otherwise payable, or by contributing any amount over and above any amount of tax owed by adding that amount to the taxpayer’s payment. The instructions accompanying the income tax return shall include a description of the purposes for which the nonprofit corporations were established and the intended use of moneys received from the contributions. Each taxpayer required to file a state income tax return who desires to contribute to these nonprofit corporations may designate such contribution as provided on the appropriate income tax return form.

(b) The Department of Revenue shall determine annually the total amount so contributed, and shall transmit such amount to the authority for even division among and deposit in the nonprofit corporations established by subparagraph (Y) of paragraph (1) of Code Section 20-3-316. (Code 1981, § 20-3-316.1, enacted by Ga. L. 2014, p. 801, § 6/HB 697.)

Effective date. — This Code section became effective July 1, 2014.

Cross references. — Income taxes, T. 48, C. 7.

Subpart 4D

Taxpayer Contribution to Student Loan Funds

20-3-409. Taxpayer opportunity to contribute to student loan funds; contribution amounts.

Repealed by Ga. L. 2014, p. 801, § 7/HB 697, effective July 1, 2014.

Editor's notes. — This Code section was based on Code 1981, § 20-3-409, enacted by Ga. L. 2008, p. 626, § 5/SB 169.

Subpart 5A

University of North Georgia Military Scholarships

20-3-420. Legislative purpose; designation of University of North Georgia as premier senior military college of Georgia.

(a) The General Assembly finds that the University of North Georgia, a unit of the University System of Georgia, is widely recognized as one of the most outstanding senior military colleges in the United States and that its outstanding status as a senior military college has been formally recognized by the board of regents and by the Department of the Army of the United States. The purpose of this subpart is to recognize this status of the University of North Georgia and to enable Georgia's most gifted young people who are interested in pursuing a military career to attend this state's premier senior military college under a full scholarship.

(b) The General Assembly officially designates the University of North Georgia as the premier senior military college of Georgia. (Ga. L. 1980, p. 1292, § 2; Code 1933, § 32-3783, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, designated the existing Code section as subsection (a); and, in subsection (a), substituted "the University of North Georgia" for "North Georgia College" in

the first and second sentences, and substituted "this state's" for "the state's" near the end of the second sentence; and added subsection (b).

20-3-421. Eligibility for scholarship.

(a) In order for a student to qualify as a nominee for and to be a recipient of a scholarship under this subpart, the student shall meet the following standards and requirements:

- (1) The student shall be a resident of Georgia;
- (2) The student shall have demonstrated academic excellence at the high school level;
- (3) The student shall meet mental and physical health standards required for commission in the Army National Guard; and
- (4) The student shall qualify for regular admission to the University of North Georgia.

(b) If selected as a recipient of a scholarship under this subpart, a student, in order to maintain eligibility for the scholarship, shall:

(1) Maintain standards of academic excellence and standards of conduct as established by the University of North Georgia;

(2) Maintain minimum full-time enrollment of at least 12 hours each quarter;

(3) Participate in military and Reserve Officers' Training Corps programs at the University of North Georgia;

(4) Maintain membership in good standing in the Army National Guard;

(5) Demonstrate the qualities required of a commissioned officer in the United States armed forces; and

(6) Upon graduation from the University of North Georgia, accept a commission as a second lieutenant and agree to serve not less than four years in the Georgia Army National Guard; however, terms of the scholarship may be met by acceptance of a commission and active duty service for not less than four years in the United States Army or a combination of service in the active army and the Georgia Army National Guard for not less than four years upon certification by the adjutant general that no need exists in the Georgia Army National Guard at the time of the commencement of the period of active service.

(c) No recipient of a scholarship under this subpart shall be eligible to receive financial aid assistance under any other student financial aid program authorized by the laws of this state. (Ga. L. 1980, p. 1292, § 3; Code 1933, § 32-3784, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 1; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College" throughout this Code section; and substituted "student shall" for "student must" in paragraph (a)(3).

20-3-422. Nomination of candidates for scholarships.

Editor's notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-3-423. Creation and composition of selection committee; duties of selection committee.

(a) For the purpose of considering nominations submitted under Code Section 20-3-422, there is created a selection committee, the membership of which shall be as follows:

(1) The chief executive officer of the University of North Georgia or his or her designated representative, who shall serve as chairperson of the selection committee;

(2) The professor of military science at the University of North Georgia or his or her designated representative;

(3) The director of admissions of the University of North Georgia;

(4) A civilian faculty member of the University of North Georgia designated by the chief executive officer of the university;

(5) A commissioned officer of the Army National Guard designated by the adjutant general;

(6) The chairperson of the House Committee on Higher Education or his or her designee;

(7) The chairperson of the Senate Higher Education Committee or his or her designee; and

(8) The executive director of the Georgia Student Finance Authority or his or her designated representative.

(b) It shall be the duty of the selection committee to select, from the six nominees from each congressional district submitted to the committee pursuant to Code Section 20-3-422, three persons from each congressional district to receive a scholarship under this subpart. In the event a congressional district does not have three qualified candidates, the committee may select a candidate or candidates at large from alternate nominees among the original candidates without regard to the congressional district of residence. Upon selecting the recipients of scholarships, the committee shall:

(1) Notify each recipient of the scholarship;

(2) Notify each member of the legislative delegation from each congressional district of the names of the recipients of the scholarships from that congressional district; and

(3) Notify the authority of the names and addresses of the recipients of the scholarships.

(c) The selection committee shall have the following additional duties:

(1) To publish in print or electronically and maintain standards of academic excellence and conduct necessary for continued eligibility for a scholarship under this subpart; and

(2) To monitor the performance of the recipients of scholarships under this subpart in accordance with the standards promulgated under paragraph (1) of this subsection. (Ga. L. 1980, p. 1292, § 5;

Code 1933, § 32-3786, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 2; Ga. L. 1984, p. 721, § 2; Ga. L. 1987, p. 468, § 2; Ga. L. 1990, p. 1903, § 4; Ga. L. 2001, p. 4, § 20; Ga. L. 2010, p. 838, § 10/SB 388; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” throughout subsection (a); substituted “university” for “college” at the end of paragraph (a)(4); in paragraph (a)(6), substituted “House Committee on Higher Education” for “House Higher Education Committee” and deleted “from that committee” at the end; and deleted “from that committee” following “designee” in paragraph (a)(7).

20-3-424. Amount of scholarship awards; duration of awards.

Scholarship awards made under this subpart shall cover all costs for room, board, matriculation, fees, uniform deposits, and an allowance for books and supplies. Scholarship assistance may be provided to a recipient under this article for a maximum period of eight academic semesters. (Ga. L. 1980, p. 1292, § 7; Code 1933, § 32-3787, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “eight academic semesters” for “12 academic quarters” near the end of this Code section.

20-3-425. Failure of scholarship recipient to meet service obligations.

(a) If the recipient of a scholarship under this subpart fails to honor his or her obligation to serve in the Army National Guard or the United States Army as provided in paragraph (6) of subsection (b) of Code Section 20-3-421, such recipient shall, at the option of the recipient, either:

(1) Serve not less than four years as an enlisted member of the Army National Guard or United States Army; or

(2) Pay to the authority an amount equal to the amount of scholarship assistance received by the recipient under this subpart, plus interest, such amount to be paid, in accordance with regulations of the authority, within five years after the recipient graduates from or terminates his or her enrollment in the University of North Georgia.

(b) Subsection (a) of this Code section shall not apply to any person who, for bona fide reasons of health as jointly verified by the authority and the selection committee, is unable to honor the obligation provided for in paragraph (6) of subsection (b) of Code Section 20-3-421. (Ga. L. 1980, p. 1292, § 8; Code 1933, § 32-3788, enacted by Ga. L. 1981, p. 735, § 51; Ga. L. 1983, p. 778, § 4; Ga. L. 2013, p. 1048, § 1/SB 82.)

The 2013 amendment, effective July 1, 2013, inserted “or her” near the middle of the introductory paragraph of subsection (a) and near the end of paragraph

(a)(2); and substituted “the University of North Georgia” for “North Georgia College” in paragraph (a)(2).

20-3-426. Effect of failure to meet standards and requirements for continued eligibility for scholarship; filling of vacancies.

Editor’s notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change.

Refer to bound volume for text of this Code section.

20-3-427. Promulgation of rules and regulations by authority; funding of scholarship program.

Editor’s notes. — Ga. L. 2013, p. 1048, § 1/SB 82, effective July 1, 2013, reenacted this Code section without change.

Refer to bound volume for text of this Code section.

Subpart 6

University of North Georgia Reserve Officers’ Training Corps Grant Program

20-3-430. Legislative findings; purpose of subpart.

The General Assembly finds that it is essential for the national defense that persons be encouraged to consider military leadership positions as an honorable and rewarding profession and that the University of North Georgia, Georgia’s only state supported military college, plays a significant role in preparing and training students for professional life in the military as a profession. It is the purpose of the General Assembly, as provided for in this subpart, to encourage students to enroll in the University of North Georgia and its military training program by providing for tuition grant assistance to such students. (Ga. L. 1976, p. 503, § 1; Code 1933, § 32-3766, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1992, p. 6, § 20; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia Col-

lege” in the first and second sentences of this Code section.

20-3-431. “Eligible student” defined.

For purposes of this subpart, the term “eligible student” means a person who:

(1) Is enrolled in or accepted for enrollment in the University of North Georgia for a minimum of 12 academic hours;

(2) Is or will be a citizen of this state for a period of at least 12 months immediately prior to the date of registration therein; and

(3) Is enrolled in or plans to enroll in the Army Reserve Officers' Training Corps program at the University of North Georgia. (Ga. L. 1976, p. 503, § 3; Code 1933, § 32-3767, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted "means" for "shall mean" in the introductory paragraph; and substituted "the University of North Georgia" for "North Georgia College" in paragraphs (1) and (3).

20-3-432. Amount for each eligible student.

There is granted to each eligible student attending the University of North Georgia the sum of \$750.00 per academic semester. (Ga. L. 1976, p. 503, § 2; Ga. L. 1978, p. 1385, § 1; Code 1933, § 32-3768, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 1995, p. 885, § 1; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted "North Georgia College" and substituted "\$750.00 per academic semester" for "the University of North Georgia" for "\$500.00 per academic quarter".

20-3-433. Application for and payment of grants; certification of eligibility; refunds if students fail to enroll.

Each eligible student wishing to receive the grant provided for in this subpart shall submit to the University of North Georgia an application for the grant payment at the time and in accordance with procedures prescribed by the authority. The authority is authorized to define such terms and prescribe such rules, regulations, and procedures as may be reasonable and necessary to carry out the purposes of this subpart. The authority shall not approve payment of any grant until it has received from an appropriate officer of the University of North Georgia a certification that the student applying for the grant is an eligible student. Upon timely receipt of such certification, in proper form, the authority is authorized to pay the grant to the University of North Georgia on behalf of and to the credit of the student. In the event a student on whose behalf a grant is paid does not enroll as a full-time student for the school term for which the grant is paid, the University of North Georgia shall make a refund to the authority in accordance with regulations of the authority. (Ga. L. 1976, p. 503, §§ 4, 5; Code 1933, § 32-3769, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” throughout this Code section, and substituted “does not enroll” for “shall not enroll” near the middle of the last sentence.

20-3-434. Pro rata reduction of grants when funds are insufficient.

Editor’s notes. — Ga. L. 2013, p. 1048, § 2/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

20-3-435. Audits of university; refund of grants for ineligible students.

The University of North Georgia shall be subject to examination by the state auditor for the sole purpose of determining whether the school has properly certified eligibility and enrollment of students and credited grants paid on behalf of such students. However, nothing in this subpart shall be construed to interfere with the authority of the school to determine admissibility of students or to control its own curriculum, philosophy, purpose, or administration. In the event it is determined that the school knowingly or through error certified an ineligible student to be eligible for a grant under this subpart, the amount of the grant paid to the school pursuant to such certification shall be refunded by the school to the authority. (Ga. L. 1976, p. 503, § 6; Code 1933, § 32-3771, enacted by Ga. L. 1980, p. 835, § 3; Ga. L. 2013, p. 1048, § 2/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “The University of North Georgia” for “North Georgia College” in the first sentence of this Code section.

20-3-436. Penalty for furnishing or accepting false statement as to eligibility.

Editor’s notes. — Ga. L. 2013, p. 1048, § 2/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Subpart 6A

Tuition Grant Assistance for University of North Georgia

20-3-440. Legislative findings.

The General Assembly finds that it is essential for the national defense that persons be encouraged to consider military leadership positions as an honorable and rewarding profession and that the

University of North Georgia, Georgia's only state supported military college, plays a significant role in preparing and training students for professional life in the military as a profession. It is the purpose of the General Assembly, as provided for in this subpart, to encourage students to enroll in the University of North Georgia and its military training program and to encourage such students to accept military commissions by providing for tuition grant assistance to such students. (Code 1981, § 20-3-440, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College and State University" twice in this Code section.

20-3-441. "Eligible student" defined.

For purposes of this subpart, the term "eligible student" means a person who:

(1) Is enrolled in or accepted for enrollment in the University of North Georgia for a minimum of 12 academic hours;

(2) Is or will be a citizen of this state for a period of at least 12 months immediately prior to the date of registration therein;

(3) Is enrolled in or plans to enroll in the Army Reserve Officers' Training Corps program at the University of North Georgia; and

(4) Has signed a contract to accept a commission, to be effective upon graduation, no later than the end of the student's junior year as an officer in any branch of the armed services of the United States or the Army National Guard. (Code 1981, § 20-3-441, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "means" for "shall mean" in the introductory paragraph of this Code section; and substituted "the University of North Georgia" for "North Georgia College and State University" in paragraphs (1) and (3).

20-3-442. Amount of grant.

There is granted to each eligible student attending the University of North Georgia the sum of \$1,500.00 per academic semester. (Code 1981, § 20-3-442, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted "the University of North Georgia" for "North Georgia College and State University" in this Code section.

20-3-443. Application for grants; certification of eligibility; refunds.

Each eligible student wishing to receive the grant provided for in this subpart shall submit to the University of North Georgia an application for the grant payment at the time and in accordance with procedures prescribed by the authority. The authority is authorized to define such terms and prescribe such rules, regulations, and procedures as may be reasonable and necessary to carry out the purposes of this subpart. The authority shall not approve payment of any grant until it has received from an appropriate officer of the University of North Georgia a certification that the student applying for the grant is an eligible student. Upon timely receipt of such certification, in proper form, the authority is authorized to pay the grant to the University of North Georgia on behalf of and to the credit of the student. In the event a student on whose behalf a grant is paid does not enroll as a full-time student for the school term for which the grant is paid, the University of North Georgia shall make a refund to the authority in accordance with regulations of the authority. (Code 1981, § 20-3-443, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, in this Code section, substituted “the University of North Georgia” for “North Georgia College and State Univer-

sity” throughout, and substituted “does not enroll” for “shall not enroll” near the beginning of the last sentence.

20-3-444. Pro rata reduction when funds are insufficient.

Editor’s notes. — Ga. L. 2013, p. 1048, § 3/SB 82, effective July 1, 2013, reenacted this Code section without change.

Refer to bound volume for text of this Code section.

20-3-445. Audits of the university.

The University of North Georgia shall be subject to examination by the state auditor for the sole purpose of determining whether the school has properly certified eligibility and enrollment of students and credited grants paid on behalf of such students. However, nothing in this subpart shall be construed to interfere with the authority of the school to determine admissibility of students or to control its own curriculum, philosophy, purpose, or administration. In the event it is determined that the school knowingly or through error certified an ineligible student to be eligible for a grant under this subpart, the amount of the grant paid to the school pursuant to such certification shall be refunded by the school to the authority. (Code 1981, § 20-3-445, enacted by Ga. L. 2008, p. 626, § 6/SB 169; Ga. L. 2013, p. 1048, § 3/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “The University of North Georgia” for “North Georgia College and State University” in the first sentence of this Code section.

20-3-446. Penalty for false statements.

Editor’s notes. — Ga. L. 2013, p. 1048, § 3/SB 82, effective July 1, 2013, reenacted this Code section without change. Refer to bound volume for text of this Code section.

Subpart 11

Grants for Students at University of North Georgia

20-3-491. Applications for scholarship grants; administration of program.

(a) Subject to appropriations by the General Assembly, the authority shall establish a program of two-year scholarship grants for eligible students attending the University of North Georgia and participating in a Reserve Officers’ Training Corps program while so enrolled. Any person meeting the conditions of this subpart may apply to the authority for a grant. Such application shall be submitted in writing on forms prescribed by the authority for such purpose. The applicant shall furnish such information as may be required by the authority for determination of eligibility for the grant. The authority shall approve grant renewals only upon receipt of the recipient’s application therefor and upon a finding that the recipient has successfully completed the work of the preceding school period and presents evidence that he or she is a student in good standing, that he or she remains a citizen of this state, and that he or she remains otherwise qualified to receive such grant under this subpart.

(b) The authority is authorized to prescribe such rules and regulations as may be necessary or convenient for administration of this program and to establish procedures for determination of eligibility of applicants. (Code 1981, § 20-3-491, enacted by Ga. L. 1998, p. 1656, § 1; Ga. L. 2013, p. 1048, § 4/SB 82.)

The 2013 amendment, effective July 1, 2013, substituted “the University of North Georgia” for “North Georgia College” in the first sentence of subsection (a).

PART 6

MEDICAL SCHOLARSHIPS

20-3-512. Powers as to medical student loans and scholarships.

(a) It shall be the duty of the board to receive and pass upon, allow or disallow all applications for loans made to or scholarships given to students who are bona fide citizens and residents of the State of Georgia and who desire to become doctors of medicine and who are acceptable for enrollment in an accredited medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association for a program in medical education designed to qualify the graduate for licensure by the Georgia Composite Medical Board. The purpose of such loans shall be to enable such applicants to obtain a standard medical education from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association which will qualify them to become licensed to practice medicine in the State of Georgia. It shall be the duty of the board to make a careful and full investigation of the ability, character, and qualifications of each applicant and determine the applicant's fitness to become the recipient of such loan or scholarship, and for such purpose the board may propound such examination to each applicant which it deems proper. The board may also prescribe such rules and regulations as it deems necessary and proper to carry out the purpose and intention of this part. The investigation of the applicant shall include an investigation of the ability of the applicant, and of the parents of such applicant, to pay his or her own tuition at such medical school, and the board in granting such loans and scholarships shall give preference to qualified applicants who, and whose parents, are unable to pay the applicant's tuition at such a medical school.

(b) The board shall have authority to grant to each applicant deemed by the board to be qualified to receive the same a loan or scholarship on a one-year renewable basis for the purpose of acquiring a medical education from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association, upon such terms and conditions as in the judgment of the board may be necessary or desirable. The board is authorized to consider, among other criteria, the home area of the student and the likelihood, if determinable, that the student will practice medicine in an area of this state which may entitle the student to repay the loan through services rendered as provided in this part.

(Code 1981, § 20-3-512, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L. 2009, p. 859, § 2/HB 509; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 1/HB 998.)

The 2014 amendment, effective July 1, 2014, inserted “from a medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association” in the second sentence of subsection (a) and the first sentence of subsection (b); in subsection (a), in the first sentence, inserted “to” preceding “students who are

bona fide”, deleted “four-year” preceding “medical school”, and deleted “of the American Medical Association” following “Liaison Committee on Medical Education”, deleted “four-year” following “obtain a standard” in the second sentence, and substituted “such” for “that” in the third sentence; and deleted “standard four-year” following “purpose of acquiring a” in the first sentence of subsection (b).

20-3-513. Determination of amount by board; terms and conditions; repayment in services.

Students whose applications are approved shall receive a loan or scholarship in an amount to be determined by the board to defray the tuition and other expenses of the applicant in an accredited medical school in the United States which has received accreditation or provisional accreditation by the Liaison Committee on Medical Education or the Bureau of Professional Education of the American Osteopathic Association for a program in medical education designed to qualify the graduate for licensure by the Georgia Composite Medical Board. The loans and scholarships shall be paid in such manner as the Georgia Board for Physician Workforce shall determine and may be prorated so as to pay to the medical college or school to which any applicant is admitted such funds as are required by such college or school with the balance being paid directly to the applicant; all of which shall be under such terms and conditions as may be provided under rules and regulations of the board. The loans or scholarships to be granted to each applicant shall be based upon the condition that the full amount of the loans or scholarships shall be repaid to the State of Georgia in services to be rendered by the applicant by practicing his or her profession in an area of this state which is rural and underserved by primary care physicians as determined by the board, in a regional area of this state composed of rural counties where an unmet need for certain primary care and other critical need specialty physicians exists as determined by the board and approved by the commissioners of community health and public health, or at any hospital or facility operated by or under the jurisdiction of the Department of Public Health, the Department of Behavioral Health and Developmental Disabilities, the Department of Corrections, or the Department of Juvenile Justice. For each year of practicing his or her profession in such board approved location, the applicant shall receive credit for the amount of the scholarship received

during any one year in medical school, with the interest due on such amount. (Code 1981, § 20-3-513, enacted by Ga. L. 2014, p. 333, § 2/HB 998.)

Effective date. — This Code section became effective July 1, 2014.

Editor's notes. — This Code section formerly pertained to determination of amount by board, terms and conditions, and repayment in services. The former Code section was based on Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L.

1985, p. 283, § 1; Ga. L. 1985, p. 1122, § 1; Ga. L. 1996, p. 265, § 1; Ga. L. 1997, p. 1453, § 1; Ga. L. 1999, p. 402, § 2; Ga. L. 2008, p. 12, § 2-3/SB 433; Ga. L. 2009, p. 859, § 2/HB 509; Ga. L. 2010, p. 286, § 17/SB 244; Ga. L. 2011, p. 459, § 1/HB 509, and was repealed by Ga. L. 2014, p. 333, § 2/HB 998, effective July 1, 2014.

20-3-514. Contract provisions for loan or scholarship.

(a) Each applicant before being granted a loan or scholarship shall enter into a contract with the State of Georgia agreeing to the terms and conditions upon which the loan or scholarship is granted, including such terms and provisions as will carry out the full purpose and intent of this part. The form of such contract shall be prepared and approved by the Attorney General, and each contract shall be signed by the chairperson of the board, countersigned by the executive director of the board, and shall be signed by the applicant. For the purposes of this part, the disabilities of minority of all applicants granted loans or scholarships pursuant to this part are removed, and such applicants are declared to be of full lawful age for the purpose of entering into the contract provided for in this Code section; and such contract so executed by an applicant is declared to be a valid and binding contract the same as though such applicant were of the full age of majority. The board is vested with full and complete authority to bring an action in its own name against any applicant for any balance due the board on any such contract.

(b) An applicant who has entered into a loan or scholarship contract with the board and who:

(1) Is dismissed for either academic or disciplinary reasons from the college or school of medicine he or she is attending;

(2) Voluntarily terminates his or her training and education in such institution for any reason prior to completion of training; or

(3) Is unable to obtain licensure from the Georgia Composite Medical Board to practice medicine

shall be immediately liable to the board for all sums advanced with interest at the minimum rate of 12 percent per annum from the date of each payment by the board and compounded annually to the date the scholarship or loan is paid in full; provided, however, that the board may consent or agree to a lesser measure of damages for compelling

reasons as determined by the board. The board is authorized to increase annually such rate of interest due on loans granted to new recipients; provided, however, that the increased rate of interest shall not exceed by more than 2 percent the prime rate published by the Board of Governors of the Federal Reserve System and in effect at the time of the increase.

(c) An applicant who has entered into a loan or scholarship contract with the board and who breaches such contract by either failing to begin or failing to complete his or her service obligation under such loan or scholarship contract or who fails to obtain licensure from the Georgia Composite Medical Board to practice medicine shall be immediately liable to the board for three times the total uncredited amount of all such scholarship or loan payments paid to the applicant, such uncredited sums to be prorated on a monthly basis respecting the applicant's actual service and total service obligation. The board may consent or agree to a lesser measure of damages for compelling reasons as determined by the board.

(d) The board shall have the authority to cancel the loan or scholarship contract of any applicant at any time for any cause deemed sufficient by the board, provided that such authority may not be arbitrarily or unreasonably exercised. Upon such cancellation by the board, the total uncredited amount of the scholarship paid to the applicant shall at once become due and payable to the board in cash with interest at the minimum rate of 12 percent per annum from the date of each payment by the board and compounded annually to the date the scholarship or loan is paid in full. The board is authorized to increase annually such rate of interest, subject to the limitations set forth in subsection (b) of this Code section. (Code 1981, § 20-3-514, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 1984, p. 22, § 20; Ga. L. 1985, p. 1122, § 2; Ga. L. 1999, p. 402, § 3; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 3/HB 998.)

The 2014 amendment, effective July 1, 2014, in subsection (a), in the third sentence, twice substituted "such" for "the said" and added a comma following "part"; in subsection (b), deleted "or" at the end of paragraph (b)(1), in paragraph (b)(2), substituted "such" for "that" and added "; or" at the end and added paragraph (b)(3); in the ending undesignated paragraph of subsection (b), added the proviso and sub-

stituted "such" for "said" near the middle of the last sentence; and in subsection (c), in the first sentence, substituted "such" for "that" near the middle and inserted "or who fails to obtain licensure from the Georgia Composite Medical Board to practice medicine" in the middle, and added "as determined by the board" at the end of the second sentence.

20-3-518. Legislative purpose.

It is the purpose and intent of this part to bring about an adequate supply of persons licensed to practice medicine in the more sparsely

populated areas of the State of Georgia by increasing the number of medical students from Georgia with scholarships awarded by the board pursuant to this part attending the various medical schools and inducing a sufficient number of the graduates from medical schools to return to Georgia and practice their profession in rural and underserved areas, thus affording adequate medical care to the people of Georgia. (Code 1981, § 20-3-518, enacted by Ga. L. 1983, p. 951, § 1; Ga. L. 2011, p. 459, § 1/HB 509; Ga. L. 2014, p. 333, § 4/HB 998.)

The 2014 amendment, effective July 1, 2014, substituted “Georgia with scholarships awarded by the board pursuant to this part attending” for “Georgia in” in the

middle and inserted “in rural and underserved areas” near the end of this Code section.

PART 7

HOPE SCHOLARSHIPS AND GRANTS

20-3-519. Definitions.

As used in this part, the term:

(1) “Academic year” means a period of time, typically nine months, in which a full-time student is expected to complete the equivalent of at least two semesters’ or three quarters’ academic work.

(2) Reserved.

(3) Reserved.

(4) “Certificate” or “diploma” means a credential, other than a degree, indicating satisfactory completion of training in a program of study offered by an eligible postsecondary institution.

(5) “Dual credit enrollment” means enrollment by a student in a postsecondary course in which an agreement has been established between an eligible high school and an eligible postsecondary institution wherein the student earns Carnegie units of credit that count toward both high school graduation requirements and postsecondary coursework requirements.

(6) “Eligible high school” means a public or private secondary school which is:

(A) Located in Georgia and accredited as such by:

- (i) The Southern Association of Colleges and Schools;
- (ii) The Georgia Accrediting Commission;
- (iii) The Georgia Association of Christian Schools;
- (iv) The Association of Christian Schools International;

(v) The Georgia Private School Accreditation Council; or

(vi) The Southern Association of Independent Schools;

provided, however, that between July 1, 2013, and June 30, 2015, if a high school located in Georgia was accredited by one of the accrediting agencies included in this subparagraph within the previous two years, such high school shall be considered an eligible high school for purposes of this subparagraph; or

(B) Located in another state and accredited by one of the following regional agencies:

(i) The Southern Association of Colleges and Schools;

(ii) The New England Association of Schools and Colleges;

(iii) The Middle States Association of Colleges and Schools;

(iv) The North Central Association of Colleges and Schools;

(v) The Northwestern Association of Schools and Colleges;

(vi) The Western Association of Schools and Colleges;

(vii) The Alabama Independent School Association; or

(viii) The Southern Association of Independent Schools.

(7) “Eligible postsecondary institution” means a school which is:

(A) A unit of the University System of Georgia;

(B) A branch of the Technical College System of Georgia;

(C) A private independent nonprofit postsecondary institution eligible for tuition equalization grants in accordance with the provisions of subparagraph (A) of paragraph (2) of Code Section 20-3-411; or

(D) A private proprietary postsecondary institution eligible for tuition equalization grants in accordance with the provisions of subparagraph (B) of paragraph (2) of Code Section 20-3-411.

(8) “Eligible private postsecondary institution” means an eligible postsecondary institution which meets the criteria set out in subparagraph (C) or (D) of paragraph (7) of this Code section.

(9) “Eligible public postsecondary institution” means an eligible postsecondary institution which meets the criteria set out in subparagraph (A) or (B) of paragraph (7) of this Code section.

(9.1) “Factor rate” means the percentage amount established by the Georgia Student Finance Commission against which the previous year HOPE award amount is multiplied.

(9.2) “First professional degree program” means a nonundergraduate degree program that meets the requirements established by the program regulations promulgated by the Georgia Student Finance Commission which, at a minimum, shall include, but not be limited to, the following:

(A) Accepts students after the completion of the sophomore or junior year; and

(B) Results in the award of a nonundergraduate degree.

(10) “Freshman student” means a student at a postsecondary institution who has attempted less than 46 quarter hours or less than 31 semester hours.

(11) “Full-time student” means a matriculated student attending a postsecondary educational institution and enrolled for at least 12 semester hours or the equivalent in any given semester or quarter.

(12) “Grade point average” means the numbered grade average calculated using a 4.0 scale.

(12.1) “Half-time student” means a matriculated student attending a postsecondary educational institution and enrolled for six to 11 semester hours or the equivalent in any given semester or quarter.

(12.2) “HOPE award amount” means the amount of HOPE award to be made to an eligible student as follows:

(A) At an eligible public postsecondary institution, the HOPE award amount is equal to the HOPE award rate multiplied by the number of credit hours, up to a maximum of 15, in which an eligible student is enrolled per quarter or semester; provided, however, that the quarter award shall equal two-thirds of the semester award and that credit hours for remedial and developmental courses shall not be included for the HOPE scholarship; or

(B) At an eligible private postsecondary institution, the HOPE award amount is equal to HOPE tuition payment multiplied by the factor rate for full-time students and one-half of the HOPE tuition payment multiplied by the factor rate for half-time students. No awards shall be made to eligible students enrolled in five or fewer credit hours and credit hours for remedial and developmental courses shall not be included for the HOPE scholarship.

(13) “HOPE award rate” means the rate equal to the previous academic year HOPE tuition payment to the eligible public postsecondary institution multiplied by the factor rate divided by 15. Notwithstanding the foregoing, the Georgia Student Finance Commission may adjust the previous academic year HOPE tuition payment used to calculate the HOPE award rate to reflect changes in the

mission or sector of an eligible public postsecondary institution that affects the tuition charged by that institution.

(13.1) “HOPE GED voucher” means a Helping Outstanding Pupils Educationally general educational development (GED) diploma voucher for postsecondary education awarded in accordance with Code Section 20-3-519.6.

(14) “HOPE grant” means a Helping Outstanding Pupils Educationally grant for education awarded in accordance with Code Section 20-3-519.5.

(15) “HOPE scholarship” means a Helping Outstanding Pupils Educationally scholarship for education awarded in accordance with Code Section 20-3-519.2.

(16) Reserved.

(16.1) “HOPE tuition payment” means, in the case of an eligible public postsecondary institution, the amount paid for tuition only based on the standard undergraduate full-time tuition rate for 15 hours; and, in the case of an eligible private postsecondary institution, the amount paid for tuition based on the amount established by the General Assembly in an appropriations Act.

(17) “Junior student” means a student at a postsecondary institution who has attempted at least 91 quarter hours but less than 136 quarter hours or at least 61 semester hours but less than 91 semester hours.

(18) Reserved.

(19) “Matriculated status” means being recognized as a student in a defined program of study leading to a degree, diploma, or certificate at a postsecondary institution.

(19.1) “Part-time student” means a matriculated student attending a postsecondary educational institution and enrolled for less than 12 semester hours or the equivalent in any given semester or quarter and who has never been enrolled for 12 or more semester hours or the equivalent in any given semester or quarter.

(20) Reserved.

(21) “Quarter hours” includes each quarter hour attempted for credit toward a degree, certificate, or diploma, but shall not include hours attempted for remedial and developmental courses for purposes of the HOPE scholarship.

(21.1) “Remedial and developmental courses” means coursework required by the postsecondary institution or chosen by the student that does not count toward program requirements for college degrees

in the case of the HOPE scholarship, or, diplomas or certificates in the case of the HOPE grant.

(22) “Semester hours” includes each semester hour attempted for credit toward a degree, certificate, or diploma, but shall not include hours attempted for remedial and developmental courses for purposes of the HOPE scholarship.

(23) “Senior student” means a student at a postsecondary institution who has attempted at least 136 quarter hours but less than 191 quarter hours or at least 91 semester hours but less than 128 semester hours.

(24) “Sophomore student” means a student at a postsecondary institution who has attempted at least 46 quarter hours but less than 91 quarter hours or at least 31 semester hours but less than 61 semester hours.

(25) “Title IV” means Title IV of the Higher Education Act of 1965, as amended, 20 U.S.C.A. Section 1070, et seq.

(26) “Tuition” means the charges to a student for postsecondary academic instruction without regard to other fees such as technology, activity, athletic, health, or other similar fees.

(26.1) “Zell Miller Grant Scholar” means a student who has met the applicable eligibility requirements to receive a HOPE grant in accordance with Code Section 20-3-519.5 and earned a cumulative grade point average of at least 3.5 at the end of any quarter or semester in which the student has attended courses toward a diploma or certificate.

(27) “Zell Miller Scholarship Scholar” means a student who has met the applicable eligibility requirements to receive a HOPE scholarship in accordance with Code Section 20-3-519.2 and:

(A) As an incoming freshman:

(i) Having graduated from an eligible high school with a grade point average of at least 3.7 calculated in accordance with Code Section 20-2-157 and having received a score of at least 1,200 combined critical reading score and math score on a single administration of the SAT or an ACT composite scale score of at least 26;

(ii) Having graduated from an eligible high school as a valedictorian or salutatorian; or

(iii) Having completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690, having received a score of at least 1,200 combined critical reading score

and math score on a single administration of the SAT or an ACT composite scale score of at least 26, and earning a cumulative grade point average of at least 3.3 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive scholarship for such student's freshman year to be paid at the end of the freshman year; and

(B) As a sophomore, junior, senior, or first professional student who met the requirements of subparagraph (A) of this paragraph, having a cumulative grade point average of at least 3.3 at the checkpoints set forth in paragraph (1) of subsection (b) of Code Section 20-3-519.2. Notwithstanding the foregoing, a student who entered an eligible postsecondary institution as a freshman between July 1, 2007, and June 30, 2011, and met the requirements of subparagraph (A) of this paragraph may become a Zell Miller Scholarship Scholar as a sophomore, junior, senior, or first professional student.

A student who loses eligibility to be a Zell Miller Scholarship Scholar for any reason may regain eligibility one time if the student requalifies at one of the checkpoints set forth in paragraph (1) of subsection (b) of Code Section 20-3-519.2. (Code 1981, § 20-3-519, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 1999, p. 81, § 20; Ga. L. 2000, p. 776, § 1; Ga. L. 2000, p. 1628, § 1; Ga. L. 2001, p. 4, § 20; Ga. L. 2002, p. 1114, § 1; Ga. L. 2004, p. 922, §§ 2, 3; Ga. L. 2006, p. 1069, § 1/SB 561; Ga. L. 2008, p. 112, § 2/SB 480; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 759, §§ 2, 4A/SB 492; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2011, p. 1, § 1/HB 326; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2013, p. 763, § 2/HB 115; Ga. L. 2014, p. 801, § 8/HB 697; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2013 amendment, effective May 6, 2013, added the ending proviso in subparagraph (6)(A).

The 2014 amendment, effective July 1, 2014, added paragraph (26.1); and inserted "Scholarship" following "Zell Miller" throughout paragraph (27).

The 2015 amendment, effective

March 13, 2015, part of an Act to revise, modernize, and correct the Code, substituted "student who" for "student that" in paragraph (26.1) and in paragraph (27), in the introductory paragraph, in the last sentence of subparagraph (B), and in the concluding paragraph.

JUDICIAL DECISIONS

Cited in *DeKalb County Sch. Dist. v. Ga. State Bd. of Educ.*, 294 Ga. 349, 751 S.E.2d 827 (2013).

20-3-519.2. Eligibility requirements for a HOPE scholarship.

(a) To be eligible for a HOPE scholarship, an entering freshman student seeking an associate or baccalaureate degree at an eligible postsecondary institution shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by:

(A) Having graduated from an eligible high school while meeting the curriculum requirements of his or her program of study in 1993 or thereafter and meeting the requirements set out in the applicable subsection and paragraph of Code Section 20-2-157;

(B) In the case of a student who is otherwise qualified but:

(i) Did not graduate from high school or complete a home study program meeting the requirements of subsection (c) of Code Section 20-2-690, having received the general educational development (GED) diploma awarded by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993, provided that such student shall only be eligible for a HOPE scholarship pursuant to subsection (c) of this Code section;

(ii) Completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 in lieu of graduating from an eligible high school, earning a cumulative grade point average of at least 3.0 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive HOPE scholarship for such student's freshman year to be paid at the end of the freshman year; or

(iii) Graduated from a high school which is not an eligible high school, earning a cumulative grade point average of at least 3.0 at an eligible postsecondary institution at the end of the quarter or semester in which the student has attempted 45 quarter hours or 30 semester hours, provided that such student shall be eligible to receive a retroactive HOPE scholarship for such student's freshman year to be paid at the end of the freshman year; or

(C) In the case of an otherwise qualified student who:

(i) Did not graduate from high school or complete a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 but received the general educational development (GED) diploma awarded by the Department of

Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993;

(ii) Completed a home study program meeting the requirements of subsection (c) of Code Section 20-2-690 in lieu of graduating from an eligible high school; or

(iii) Graduated from a high school which is not an eligible high school,

earning a score in the eightieth percentile or higher nationally on a standardized college admission test, such as the SAT or ACT; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status.

(b) To be eligible for a HOPE scholarship, a sophomore, junior, senior, or first professional student seeking an associate, baccalaureate, or first professional degree at an eligible postsecondary institution shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by meeting the following criteria:

(A) Earning a cumulative grade point average of at least 3.0 at a postsecondary institution:

(i) At the end of the quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours if such student is a full-time student; or

(ii) At the end of three consecutive quarters or semesters if such student is a part-time student and has maintained part-time student status for three consecutive quarters or semesters; and

(B) Maintaining satisfactory academic progress in a course of study in accordance with the standards and practices used for federal Title IV programs by the postsecondary institution in which the student is enrolled; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate or first professional student in a matriculated status.

(c)(1)(A) A full-time student who fails to maintain a cumulative grade point average of at least 3.0 at the end of the quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours may attend the next 45 quarter or 30 semester hours without a HOPE scholarship.

(B) An otherwise eligible student who attains or regains a cumulative grade point average of at least 3.0 at the end of a

quarter or semester in which the student has attempted 45, 90, or 135 quarter hours or 30, 60, or 90 semester hours may qualify or requalify for a HOPE scholarship; provided, however, that a student who receives a HOPE scholarship and loses eligibility pursuant to this subsection is only eligible to regain or requalify for the HOPE scholarship one time.

(2) In addition to other requirements, and regardless of quarter hours or semester hours of coursework attempted, a student who fails to possess a cumulative grade point average of at least 3.0 at the end of each spring quarter or semester or at the end of three consecutive quarters or semesters for a part-time student pursuant to paragraph (1) of subsection (b) of this Code section shall be ineligible for a HOPE scholarship until such time as the student regains or attains a cumulative grade point average of at least 3.0 at one of the 45, 90, or 135 quarter hour grade point average checkpoints or at one of the 30, 60, or 90 semester hour grade point average checkpoints, at which time the student will regain or attain eligibility if other terms and conditions in this Code section are also satisfied; provided, however, that a student who receives a HOPE scholarship and loses eligibility pursuant to this subsection is only eligible to regain or requalify for the HOPE scholarship one time.

(d) A student may receive the HOPE scholarship until the first of these events:

(1) The student has earned a baccalaureate or first professional degree;

(2) The student has attempted at any postsecondary institution a total of 190 quarter hours or 127 semester hours; or

(3) Beginning with those students receiving a HOPE scholarship for the first time on or after July 1, 2011, seven years from a student's graduation from high school or the equivalent thereof as determined by the Georgia Student Finance Commission in its rules and regulations; provided, however, that for a student who serves in the military during such seven-year period, any such military service served as active duty shall not count against the seven-year period. A student that is ineligible to receive a HOPE scholarship pursuant to this paragraph but who received the HOPE scholarship during the 2010-2011 academic year shall continue to be eligible for the HOPE scholarship until June 30, 2015, as long as such student meets all other eligibility requirements, including, but not limited to, paragraphs (1) and (2) of this subsection.

(e) Subject to the amounts appropriated by the General Assembly and provisions relating to the Lottery for Education Account in Code Section 50-27-13, a HOPE scholarship awarded under this Code section shall be equal to the HOPE award amount.

(f) For each semester of eligibility, Zell Miller Scholarship Scholars shall be awarded an amount in addition to the HOPE award amount as follows:

(1) If attending an eligible public institution, an amount equal to the difference between the HOPE award amount and the then current academic year standard undergraduate tuition amount at the institution to be paid; and

(2) If attending an eligible private institution, an amount equal to the difference between the HOPE award amount and the HOPE tuition payment. (Code 1981, § 20-3-519.2, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 2000, p. 618, § 77; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 922, § 4; Ga. L. 2006, p. 338, §§ 1, 2/SB 506; Ga. L. 2006, p. 1069, § 2/SB 561; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 590, § 1/HB 152; Ga. L. 2008, p. 759, § 3/SB 492; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2009, p. 858, § 1/HB 484; Ga. L. 2011, p. 1, § 3/HB 326; Ga. L. 2012, p. 775, § 20/HB 942; Ga. L. 2014, p. 491, § 1/HB 810; Ga. L. 2014, p. 801, § 9/HB 697.)

The 2014 amendments. — The first 2014 amendment, effective July 1, 2014, substituted “eightieth” for “eighty-fifth” in the ending paragraph of subparagraph

(a)(1)(C). The second 2014 amendment, effective July 1, 2014, inserted “Scholarship” in the introductory paragraph of subsection (f).

JUDICIAL DECISIONS

Cited in DeKalb County Sch. Dist. v. Ga. State Bd. of Educ., 294 Ga. 349, 751 S.E.2d 827 (2013).

20-3-519.5. Eligibility requirements for a HOPE grant.

(a) To be eligible for a HOPE grant, a student seeking a diploma or certificate at a branch of the Technical College System of Georgia or a unit of the University System of Georgia shall, in addition to meeting the residency requirements set forth in subsection (a) of Code Section 20-3-519.1:

(1) Meet achievement standards by earning a cumulative grade point average of at least 2.0 at the end of the quarter or semester in which the student has attended 30 or 60 semester hours or 45 or 90 quarter hours of courses toward a diploma or certificate for which the student received HOPE funds pursuant to this part. The grade point average shall be calculated using such 30 semester or 45 quarter hours taken pursuant to this subsection. An otherwise eligible student who attains or regains a cumulative grade point average of at least 2.0 at the end of a quarter or semester in which the student has attempted 30 or 60 semester hours or 45 or 90 quarter hours may

qualify or requalify for a HOPE grant; provided, however, that a student who receives a HOPE grant and loses eligibility pursuant to this paragraph is only eligible to regain or requalify for the HOPE grant one time; and

(2) Meet enrollment standards by being admitted, enrolled, and classified as an undergraduate student in a matriculated status in a program of study leading to a certificate or diploma and maintaining satisfactory academic progress in accordance with the standards and practices used for federal Title IV programs by the institution at which the student is enrolled.

(b) There is no minimum number of hours of enrollment required for eligibility for a HOPE grant under this Code section.

(c) Subject to the provisions of subsection (e) of this Code section, an eligible student may receive HOPE grants for all coursework required by the institution for programs of study leading to a certificate or diploma, including remedial and developmental courses.

(d) Subject to the amounts appropriated by the General Assembly and provisions relating to the Lottery for Education Account in Code Section 50-27-13, a HOPE grant awarded under this Code section shall equal the HOPE award amount.

(d.1) For each semester or quarter following a semester or quarter that it is determined that a student is a Zell Miller Grant Scholar, a student shall be awarded an amount in addition to the HOPE award amount equal to the difference between the HOPE award amount and the then current academic year standard undergraduate tuition amount at the institution to be paid or the exceptional tuition rate amount in effect on January 1, 2014, for programs with exceptional tuition rates in effect on January 1, 2014. Eligibility to be a Zell Miller Grant Scholar shall be determined on a semester or quarter basis and paid for the next semester or quarter in which a student is enrolled. Notwithstanding the foregoing, a Zell Miller Grant Scholar shall also receive one semester or quarter of retroactive payment if the student was not eligible to be a Zell Miller Grant Scholar because he or she had no cumulative grade point average.

(e) No student that has a baccalaureate degree, its equivalent or higher, from any postsecondary institution shall be eligible to receive a HOPE grant. No student may receive HOPE grants for more than 95 quarter hours or 63 semester hours of attempted coursework. No student may receive more than a cumulative total of 190 quarter hours or 127 semester hours of combined HOPE scholarships and grants. For purposes of this subsection, attempted hours shall not include hours for courses taken and paid for by a HOPE grant while a student is participating in dual credit enrollment with both an eligible high school

and a branch of the Technical College System of Georgia or a unit of the University System of Georgia. The Technical College System of Georgia or the University System of Georgia, as applicable, shall verify that the student is enrolled in an eligible high school and shall notify the Georgia Student Finance Commission of the student's participation in dual credit enrollment. (Code 1981, § 20-3-519.5, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 2000, p. 618, § 78; Ga. L. 2004, p. 922, § 7; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2008, p. 759, § 4B/SB 492; Ga. L. 2009, p. 858, § 3/HB 484; Ga. L. 2011, p. 1, § 4/HB 326; Ga. L. 2013, p. 191, § 1/HB 372; Ga. L. 2014, p. 801, § 10/HB 697; Ga. L. 2015, p. 5, § 20/HB 90.)

The 2013 amendment, effective July 1, 2013, substituted “2.0” for “3.0” twice in paragraph (a)(1).

The 2014 amendment, effective July 1, 2014, added subsection (d.1).

The 2015 amendment, effective March 13, 2015, part of an Act to revise, modernize, and correct the Code, revised language in paragraph (a)(1) and subsection (c).

20-3-519.6. HOPE GED vouchers.

Subject to the amounts appropriated by the General Assembly and provisions relating to the shortfall reserve in Code Section 50-27-13, a HOPE GED voucher in the amount of \$500.00 shall be available once to each student receiving a general educational development (GED) diploma awarded by the Department of Technical and Adult Education, now known as the Technical College System of Georgia, after June 30, 1993. Such voucher shall be issued to such student upon enrollment in any eligible postsecondary institution in Georgia within 24 months from the date the general educational development (GED) diploma was awarded to the student and may only be used to cover postsecondary costs of attendance at such institution; provided, however, that for an individual who becomes eligible for such voucher while he or she is incarcerated in a penal institution in this state, such voucher may be used by such individual within 24 months from the date of release from the penal institution. (Code 1981, § 20-3-519.6, enacted by Ga. L. 1998, p. 626, § 2; Ga. L. 2001, p. 4, § 20; Ga. L. 2008, p. 335, § 2/SB 435; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2010, p. 398, § 1/SB 341; Ga. L. 2011, p. 1, § 5/HB 326; Ga. L. 2013, p. 222, § 12/HB 349.)

The 2013 amendment, effective July 1, 2013, added the proviso at the end of this Code section. See editor's note for applicability.

Editor's notes. — Ga. L. 2013, p. 222, § 21/HB 349, not codified by the General Assembly, provides: “This Act shall become effective on July 1, 2013, and shall apply to offenses which occur on or after

that date. Any offense occurring before July 1, 2013, shall be governed by the statute in effect at the time of such offense.”

Law reviews. — For article, “Appeal and Error: Appeal or Certiorari by State in Criminal Cases,” see 30 Ga. St. U.L. Rev. 17 (2013). For annual survey on criminal law, see 66 Mercer L. Rev. 37 (2014).

ARTICLE 8

EUGENE TALMADGE MEMORIAL HOSPITAL

20-3-520. Construction and operation authorized; separate appropriations.

JUDICIAL DECISIONS

Cited in Cook v. Forrester, 323 Ga. App. 631, 746 S.E.2d 624 (2013).

ARTICLE 9

GEORGIA MILITARY COLLEGE

PART 2

FUNDING; DONATIONS; PROPERTY; SCHOLARSHIPS

20-3-560. Legislative intent.

It is the intention of the General Assembly that the Georgia Military College be a state-wide institution dedicated to providing a high-quality military education to the youth of this state, but not beyond the level of the second year of postsecondary study except for Bachelor of Applied Science degree programs which assist graduates of institutions under the Technical College System of Georgia in the attainment of a four-year bachelor’s degree; provided, however, that no branch of the Georgia Military College shall offer any Bachelor of Applied Science degree program that is currently being offered by an institution of the Board of Regents of the University System of Georgia which is located in the same county as such branch; provided, further, that the level of such educational programs shall be subject to the availability of funds appropriated by the General Assembly. The student enrollment of the college shall reflect as closely as possible the racial and demographic makeup of the state. (Code 1981, § 20-3-560, enacted by Ga. L. 1990, p. 579, § 1; Ga. L. 2014, p. 474, § 1/HB 763.)

The 2014 amendment, effective July 1, 2014, in the first sentence of this Code section, added the language beginning with “except for Bachelor of Applied Science” and ending with “same county as such branch”, and substituted “provided, further” for “provided, however” near the end.

ARTICLE 12

POSTSECONDARY EDUCATION GRANTS FOR FOSTER
CHILDREN AND ADOPTED CHILDREN**20-3-660. Program of grants created; terms and conditions; applications; eligibility; duties of the Division of Family and Children Services; expenses and fees covered; report by the Education Coordinating Council.**

From funds appropriated by the General Assembly for such purpose, there is created a program of grants for the payment of postsecondary tuition, ancillary fees, and living expenses for Georgia foster children and adopted children. Such grants shall be subject to the following terms and conditions:

(1) Tuition, ancillary student fees, and the cost-of-living expenses for any undergraduate program of any Georgia public postsecondary institution, including all four-year and two-year colleges and universities and institutions of the Georgia Community and Technical College System, shall be paid for a Georgia foster or adopted child who is a full-time or part-time student if the student meets all entrance requirements and maintains academic eligibility while enrolled at the postsecondary institution and if:

(A) The student's family receives state funded adoption assistance under Code Section 49-5-8;

(B) The student is currently committed to the Division of Family and Children Services within the Department of Human Services under Code Section 15-11-212 and placed in a family foster home or is placed in accordance with subparagraph (a)(2)(C) of Code Section 15-11-212;

(C) The student is in an independent living program and the placement is funded by the Division of Family and Children Services; or

(D) The student who is an adopted child was in the permanent legal custody of and placed for adoption by the Division of Family and Children Services following the child's fourteenth birthday. A student who meets the eligibility criteria of this subparagraph and lives outside this state at the time of application to a Georgia postsecondary institution may apply for the grant as though he or she were still a resident of this state;

(2) The student shall:

(A) Obtain the application for the grant through the Division of Family and Children Services; and

(B) Complete the Free Application for Federal Student Aid to determine the level of need and eligibility for state and federal financial aid programs. If the student's financial need for total cost of attendance, as defined in 20 U.S.C. Section 1087ll, exceeds the available funding from all sources, except loans and the work-study program under 42 U.S.C. Sections 2751-2756b, the foster care tuition grant shall be used to cover the excess assessed need for cost of attendance at the postsecondary institution;

(3) The student shall be eligible and remain eligible for the grant so long as:

(A) The student applies for entrance to the institution within three years of receipt of his or her high school diploma or general educational development (GED) diploma;

(B) The student maintains satisfactory academic progress as defined by the institution attended; and

(C) The student has not reached the age of 26;

(4) The Division of Family and Children Services shall:

(A) Advertise the availability of the program and ensure that the children and young adults leaving foster care, foster parents, and family services counselors are informed of the availability of the program and the application procedures;

(B) Provide grant applications to all students leaving foster care; and

(C) Report the number of students participating in the tuition grant program on October 1 of each year to the Office of Planning and Budget and the Office of the Child Advocate;

(5) Cost-of-living expenses and necessary fees shall be determined for this program by the institution in which the student enrolls. Cost-of-living may include but is not limited to room, board, books, fees, supplies, transportation fees, and a basic health care policy endorsed by the institution in which the student is enrolled;

(6) The Education Coordinating Council shall report nonidentifying data on graduation rates of students participating in the tuition grant program by November 30 each year to the Office of Planning and Budget and the Office of the Child Advocate; and

(7) Nothing in this Code section shall be construed to:

(A) Guarantee acceptance of or entrance into any postsecondary institution for a foster or adopted child;

(B) Limit the participation of a foster or adopted student in any other program of financial assistance for postsecondary education;

(C) Require any postsecondary institution to waive costs or fees relating to tuition, fees, room, and board;

(D) Restrict any postsecondary institution or the Division of Family and Children Services from accessing other sources of financial assistance, except loans, that may be available to a foster or adopted student; or

(E) Prevent the student from maintaining the grant if transferring to another public postsecondary institution in this state, provided that the student meets all of the requirements of the transferring and receiving institutions. (Code 1981, § 20-3-660, enacted by Ga. L. 2005, p. 479, § 1/HB 272; Ga. L. 2009, p. 8, § 20/SB 46; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2013, p. 294, § 4-40/HB 242.)

The 2013 amendment, effective January 1, 2014, in subparagraph (1)(B), substituted “Code Section 15-11-212” for “Code Section 15-11-55”, and substituted “subparagraph (a)(2)(C) of Code Section 15-11-212” for “Code Section 15-11-2”. See editor’s note for applicability.

Editor’s notes. — Ga. L. 2013, p. 294, § 5-1/HB 242, not codified by the General Assembly, provides that: “This Act shall become effective on January 1, 2014, and shall apply to all offenses which occur and juvenile proceedings commenced on and

after such date. Any offense occurring before January 1, 2014, shall be governed by the statute in effect at the time of such offense and shall be considered a prior adjudication for the purpose of imposing a disposition that provides for a different penalty for subsequent adjudications, of whatever class, pursuant to this Act. The enactment of this Act shall not affect any prosecutions for acts occurring before January 1, 2014, and shall not act as an abatement of any such prosecutions.”

CHAPTER 4

VOCATIONAL, TECHNICAL, AND ADULT EDUCATION

Article 2

Technical and Adult Education

Sec.
20-4-21.1. (Repealed effective June 30,

2016) Nonlapsing revenue of institutions under the Technical College System of Georgia.

ARTICLE 2

TECHNICAL AND ADULT EDUCATION

20-4-21.1. (Repealed effective June 30, 2016) Nonlapsing revenue of institutions under the Technical College System of Georgia.

Revenue collected by any or all institutions under the Technical College System of Georgia from tuition, departmental sales or services, continuing education fees, technology fees, or indirect cost recoveries shall not lapse. The amount of revenue from tuition that shall not lapse under this Code section shall not exceed 15 percent of the tuition collected. This Code section shall stand repealed on June 30, 2016. (Code 1981, § 20-4-21.1, enacted by Ga. L. 2006, p. 686, § 3/HB 1294; Ga. L. 2008, p. 884, § 2-2/HB 1183; Ga. L. 2010, p. 576, § 2-2/HB 1128; Ga. L. 2013, p. 747, § 2-2/HB 45.)

The 2013 amendment, effective May 6, 2013, substituted “2016” for “2013” in the last sentence.

ARTICLE 3

INDUSTRY SERVICES TRAINING PROGRAM

20-4-40. Program for quick start training established.

JUDICIAL DECISIONS

Cited in Deal v. Coleman, 294 Ga. 170, 751 S.E.2d 337 (2013).

CHAPTER 5

LIBRARIES

ARTICLE 1

STATE PUBLIC LIBRARY ACTIVITIES

20-5-5. Internet safety policies in public libraries.

Cross references. — Prohibition against depiction of minors in obscene ways, § 16-11-40.1.

CHAPTER 7

LEGISLATIVE EDUCATIONAL RESEARCH COUNCIL

Sec.
20-7-1 through 20-7-5 [Repealed].

20-7-1 through 20-7-5.

Reserved. Repealed by Ga. L. 1986, p. 827, § 1, effective April 3, 1986.

Editor’s notes. — Ga. L. 2013, p. 141, § 20/HB 79, reserved the designation of this chapter, effective April 24, 2013.

CHAPTER 8

CAMPUS POLICEMEN

20-8-1. Definitions.

JUDICIAL DECISIONS

College campus police officers did not qualify for immunity. — Campus police officers employed by a private college did not qualify as a state officer or employee who may assert immunity from tort suits under the Georgia Tort Claims

Act, O.C.G.A. § 50-21-20 et seq., because the officers were not acting for any state government entity when the officers committed the alleged torts. *Hartley v. Agnes Scott College*, 295 Ga. 458, 759 S.E.2d 857 (2014).

20-8-2. Law enforcement powers.

JUDICIAL DECISIONS

Complaint sufficiently stated claim. — Trial court’s denial of the defendant’s motion to dismiss was affirmed as to the plaintiff’s claim against a college employing three police officers because when the complaint’s allegations were construed in the light most favorable to the plaintiff; the college failed to establish that the

plaintiff could not possibly present evidence that the campus police officers were acting under the direction of the college at the time of the officers’ allegedly tortious conduct. *Agnes Scott College, Inc. v. Hartley*, 330 Ga. App. 575, 768 S.E.2d 767 (2015).

20-8-4. Exemption of university system campus policemen.

JUDICIAL DECISIONS

Cited in *Hartley v. Agnes Scott College*,
295 Ga. 458, 759 S.E.2d 857 (2014).

20-8-7. Public disclosure of campus police records.

JUDICIAL DECISIONS

Cited in *Hartley v. Agnes Scott College*,
295 Ga. 458, 759 S.E.2d 857 (2014).

CHAPTER 14

EDUCATION ACCOUNTABILITY

Article 2	Sec.	
Education Accountability Assessment Programs		Appointment of OSD Superin- tendent; development of guidelines and procedures.
PART 2	20-14-103.	(For effective date, see note.)
OFFICE OF STUDENT ACHIEVEMENT		Selection of qualifying schools; criteria; role of super- intendent; special treatment of charter schools.
Sec.		
20-14-26.1. Authority to incorporate non- profit corporation as public foundation; requirements; Public Education Innovation Fund Foundation; reporting.	20-14-104.	(For effective date, see note.)
	20-14-105.	Annual school rating. (For effective date, see note.)
PART 9		Intervention models; commu- nity feedback; financing is- sues; student support and op- portunities; principals.
CAREER AND TECHNICAL EDUCATION ADVISORY COMMISSION	20-14-106.	(For effective date, see note.)
20-14-91. Career and Technical Educa- tion Advisory Commission created; membership; re- quirements; meetings; reim- bursement.	20-14-107.	Establishment of school goals; governing board membership and qualifications. (For effective date, see note.)
Article 3	20-14-108.	Responsibilities of OSD Su- perintendent; modifications to selected schools. (For effective date, see note.)
Opportunity School District	20-14-109.	School facility management. (For effective date, see note.)
20-14-100. (For effective date, see note.) Definitions.	20-14-110.	Supervision of schools; effect of failing schools. (For effective date, see note.)
20-14-101. (For effective date, see note.) Creation of Opportunity School District.		Treatment as single local ed- ucation agency; data report- ing.
20-14-102. (For effective date, see note.)		

Sec.		Sec.	
20-14-111.	(For effective date, see note.) Funding for opportunity schools.		provement services and technical assistance.
20-14-112.	(For effective date, see note.) Regulation and waivers; im-	20-14-113.	(For effective date, see note.) Applicability.

ARTICLE 2

EDUCATION ACCOUNTABILITY ASSESSMENT PROGRAMS

PART 2

OFFICE OF STUDENT ACHIEVEMENT

20-14-26.1. Authority to incorporate nonprofit corporation as public foundation; requirements; Public Education Innovation Fund Foundation; reporting.

(a) The office shall have the power and authority to incorporate a nonprofit corporation that could qualify as a public foundation under Section 501(c)(3) of the Internal Revenue Code to aid the office in carrying out any of its powers and in accomplishing any of its purposes. Any nonprofit corporation created pursuant to this power shall be created pursuant to Chapter 3 of Title 14, the “Georgia Nonprofit Corporation Code,” and the Secretary of State shall be authorized to accept such filing.

(b) Any nonprofit corporation created pursuant to this Code section shall be subject to the following provisions:

(1) In accordance with the Constitution of Georgia, no governmental functions or regulatory powers shall be conducted by any such nonprofit corporation;

(2) Upon dissolution of any such nonprofit corporation incorporated by the office, any assets shall revert to the office or to any successor to the office or, failing such succession, to the State of Georgia;

(3) As used in this paragraph, the term “direct employee costs” means salary, benefits, and travel expenses. To avoid the appearance of undue influence on regulatory functions by donors, no donations to any such nonprofit corporation from private sources shall be used for direct employee costs of the office;

(4) Any such nonprofit corporation shall be subject to all laws relating to open meetings and the inspection of public records;

(5) The office shall not be liable for the action or omission to act of any such nonprofit corporation;

(6) No debts, bonds, notes, or other obligations incurred by any such nonprofit corporation shall constitute an indebtedness or obligation of the State of Georgia nor shall any act of any such nonprofit corporation constitute or result in the creation of an indebtedness of the state. No holder or holders of any such bonds, notes, or other obligations shall ever have the right to compel any exercise of the taxing power of the state nor to enforce the payment thereof against the state; and

(7) Any nonprofit corporation created pursuant to this Code section shall not acquire or hold a fee simple interest in real property by any method, including but not limited to gift, purchase, condemnation, devise, court order, and exchange.

(b.1) Pursuant to this Code section, the office may establish a nonprofit corporation to be designated as the Public Education Innovation Fund Foundation to promote Public-Private Partnerships between businesses, nonprofit organizations, institutions of higher education, local school systems, and public schools, for the purpose of improving student achievement. Funds received by the foundation may be awarded through a competitive grant process administered by the office. The General Assembly may appropriate funds for purposes of this foundation beginning in Fiscal Year 2015.

(c) Any nonprofit corporation created pursuant to this Code section shall make public and provide an annual report showing the identity of all donors and the amount each person or entity donated as well as all expenditures or other disposal of money or property donated. Such report shall be provided to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the chairpersons of the House Committee on Education and the Senate Education and Youth Committee. Any such nonprofit corporation shall also provide such persons with a copy of all corporate filings with the federal Internal Revenue Service. (Code 1981, § 20-14-26.1, enacted by Ga. L. 2013, p. 1061, § 32/HB 283; Ga. L. 2014, p. 866, § 20/SB 340.)

Effective date. — This Code section became effective July 1, 2013.

The 2014 amendment, effective April 29, 2014, part of an Act to revise, modern-

ize, and correct the Code, substituted “office” for “department” in the first sentence of subsection (a).

PART 3

ACCOUNTABILITY ASSESSMENT

20-14-41. (For effective date, see note) Appropriate levels of intervention for failing schools; master or management team; school improvement team; annual reports; data revision; hearing.

Editor's notes. — Ga. L. 2015, p. 92, § 2/SB 133 provides for the repeal of this Code section, effective January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools. For provisions of this Code section effective until that date, see the bound volume.

Ga. L. 2015, p. 92, § 6/SB 133, not codified by the General Assembly, pro-

vides: “(a) This Act shall become effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools.

“(b) If such an amendment to the Constitution is not so ratified, then this Act shall not become effective and shall stand repealed by operation of law on January 1, 2017.”

PART 9

CAREER AND TECHNICAL EDUCATION ADVISORY COMMISSION

Effective date. — This part became effective July 1, 2013.

20-14-91. Career and Technical Education Advisory Commission created; membership; requirements; meetings; reimbursement.

(a) There is created the Career and Technical Education Advisory Commission.

(b)(1) The commission shall consist of four members of the House of Representatives to be appointed by the Speaker of the House, one of whom shall be from the House Committee on Economic Development and Tourism, one of whom shall be from the House Committee on Agriculture and Consumer Affairs, one of whom shall be from the House Committee on Education, and one of whom shall be from the House Committee on Higher Education; four members of the Senate to be appointed by the President of the Senate, one of whom shall be from the Senate Economic Development Committee, one of whom shall be from the Senate Agriculture and Consumer Affairs Committee, one of whom shall be from the Senate Education and Youth Committee, and one of whom shall be from the Senate Higher Education Committee; three members who are not members of the

General Assembly to be appointed by the Governor; and three members who are not members of the General Assembly to be appointed by the State School Superintendent.

(2) Vacancies in the commission shall be filled in the same manner as the original appointments.

(3)(A) Legislative members of the commission shall serve two-year terms concurrent with their terms as members of the General Assembly.

(B) Nonlegislative members of the commission shall serve for two-year terms concurrent with those terms of legislative members of the commission.

(c) The Speaker of the House shall designate one of the commission members from the House of Representatives as a co-chairperson of the commission, and the President of the Senate shall designate one of the commission members from the Senate as a co-chairperson of the commission. Each co-chairperson shall serve as such concurrent with his or her term as a member of the commission.

(d)(1) The head of the career and technical education program of the Department of Education shall report annually to the commission regarding the conditions, needs, issues, and problems of the program.

(2) The commission shall periodically review the conditions, needs, issues, and problems related to the career and technical education program, issue annually a report on the same to the General Assembly, and recommend any action or legislation which the commission deems necessary or appropriate.

(e)(1) The commission may conduct such meetings at such places and at such times as it may deem necessary or convenient to enable it to exercise fully and effectively its powers, perform its duties, and accomplish the objectives and purposes of this Code section. The commission shall meet upon the call of either co-chairperson. The commission shall meet at least once but not more than four times annually.

(2) The legislative members of the commission shall receive the allowances provided for in Code Section 28-1-8. Any citizen members shall receive a daily expense allowance in the amount specified in subsection (b) of Code Section 45-7-21 as well as the mileage or transportation allowance authorized for state employees. Any members of the commission who are state officials, other than legislative members, and state employees shall receive no compensation for their services on the commission, but they shall be reimbursed for expenses incurred by them in the performance of their duties as members of the commission in the same manner as they are reim-

bursed for expenses in their capacities as state officials or employees. The funds necessary for the reimbursement of the expenses of state officials, other than legislative members, and state employees shall come from funds appropriated to or otherwise available to the Department of Education. All other funds necessary to carry out the provisions of this Code section shall come from funds appropriated to the House of Representatives and the Senate. The expenses and allowances authorized by this paragraph shall not be received by members of the commission for more than four days annually. (Code 1981, § 20-14-91, enacted by Ga. L. 2013, p. 675, § 1/SB 100.)

Editor's notes. — Former Code Section 20-14-91, relating to membership and vacancies, was repealed by Ga. L. 2007, p. 47, § 20/SB 103, effective December 31, 2012, and was based on Code 1981, § 20-14-91, enacted by Ga. L. 2006, p. 1008, § 1/HB 1228; Ga. L. 2007, p. 47, § 20/SB 103.

ARTICLE 3

OPPORTUNITY SCHOOL DISTRICT

Delayed effective date. — Ga. L. 2015, p. 92, § 6, not codified by the General Assembly, provides: “(a) This Act shall become effective on January 1, 2017, only if an amendment to the Constitution is ratified at the November, 2016, general election expressly allowing the General Assembly to authorize the establishment of an Opportunity School District to provide for state intervention for failing schools.”

“(b) If such an amendment to the Constitution is not so ratified, then this Act shall not become effective and shall stand repealed by operation of law on January 1, 2017.”

20-14-100. (For effective date, see note.) Definitions.

As used in this article, the term:

- (1) “Office” means the Office of Student Achievement.
- (2) “Opportunity school” means a public elementary or secondary school under the supervision of the Opportunity School District.
- (3) “Opportunity School District” or “OSD” means the state-wide district established pursuant to this article.
- (4) “OSD charter school” means an opportunity school authorized by the State Charter Schools Commission pursuant to Article 31A of Chapter 2 of this title.
- (5) “OSD Superintendent” means the superintendent of the Opportunity School District appointed by the Governor pursuant to Code Section 20-14-102.
- (6) “Qualifying school” means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for a minimum of three consecutive years.

(7) “School on probation” means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for two consecutive years.

(8) “School on warning” means a public elementary or secondary school that earns a rating of F pursuant to Code Section 20-14-104 for one year. (Code 1981, § 20-14-100, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor’s notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-101. (For effective date, see note.) Creation of Opportunity School District.

(a) The Opportunity School District is hereby created pursuant to the authority granted in Article VIII, Section V, Paragraph VIII of the Georgia Constitution. The Opportunity School District shall be authorized to assume the supervision, management, and operation of public elementary and secondary schools which have been determined to be qualifying pursuant to this article.

(b) The Opportunity School District shall be established within the Office of Student Achievement. (Code 1981, § 20-14-101, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor’s notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-102. (For effective date, see note.) Appointment of OSD Superintendent; development of guidelines and procedures.

(a) The Governor shall appoint a superintendent, to be confirmed by the Senate, to serve as the executive officer of the Opportunity School District. The OSD Superintendent shall serve at the pleasure of the Governor and shall have such qualifications as set forth in subsection (b) of Code Section 20-2-101 and salary as determined by the Governor. The OSD Superintendent shall be an employee of the office but shall report directly to the Governor.

(b) The OSD Superintendent shall develop guidelines and procedures for the operation of the OSD. The OSD Superintendent shall annually provide a report to the General Assembly on all aspects of operation, including the selection, intervention chosen, and progress of the opportunity schools. The report shall also be published on the office website. (Code 1981, § 20-14-102, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-103. (For effective date, see note.) Selection of qualifying schools; criteria; role of superintendent; special treatment of charter schools.

(a) The Opportunity School District shall be authorized to select up to 20 qualifying schools to add to the OSD in any single school year. The Opportunity School District shall have no more than 100 schools under its supervision at any given time. The schools selected for inclusion in the OSD should represent geographic diversity, including urban and rural schools.

(b) Selection of up to 20 qualifying schools to add to the OSD in any single school year shall be based on an analysis of performance over the most recent three-year period with emphasis on student growth and progress and other considerations, including geographic clusters of qualifying schools, feeder patterns with multiple eligible schools, current turn-around efforts, availability of qualified partners, and community engagement and support. The school selection process shall include a public hearing to allow for parent and community input and the final selection of which schools are transferred into the OSD shall be in the sole discretion of the OSD Superintendent.

(c) The OSD Superintendent shall have the sole discretion in determining the timing and sequencing of transferring qualifying schools to the OSD, which may take into consideration the capacity of the OSD in successfully overseeing each school. Prior to transferring any qualifying school to the OSD, the OSD Superintendent shall conduct an evaluation of the school to determine the factors contributing to the school's performance and shall conference with the school principal, local board of education members, and the local school superintendent to share the findings of the evaluation and discuss options for remediation in a joint effort between the OSD and the local school system. The OSD Superintendent shall evaluate and identify the qualifying schools selected for intervention no later than April 1 prior to the initial school year in which the OSD intervention model will be implemented. The specific intervention model in subsection (a) of Code Section 20-14-105 most appropriate for each school based on the findings of the evaluation shall be identified by the OSD Superintendent no later than July 1 of the effective school year and published on the office website.

(d) The OSD Superintendent is authorized to waive specifically identified State Board of Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this title for opportunity schools. The goal for each waiver shall be improvement of student performance. The OSD Superintendent is not authorized to waive any

federal, state, and local rules, regulations, court orders, and statutes relating to civil rights; insurance; the protection of the physical health and safety of school students, employees, and visitors; conflicting interest transactions; the prevention of unlawful conduct; any laws relating to unlawful conduct in or near a public school; any reporting requirements pursuant to Code Section 20-2-320 or this chapter; the requirements of Code Section 20-2-211.1 relating to fingerprint and criminal background checks; state accountability requirements, including but not limited to teacher and leader evaluation pursuant to Code Section 20-2-210; or the requirements in subsection (c) of Code Section 20-2-327. A school that has received a waiver shall remain subject to the provisions of Part 3 of Article 2 of this chapter, the requirement that it shall not charge tuition or fees to its students except as may be authorized for local boards by Code Section 20-2-133. All opportunity schools shall comply with all applicable constitutional and statutory nondiscrimination requirements.

(e) In the event that a qualifying school selected to be an opportunity school pursuant to this article is an existing charter school or is currently subject to any school level requirements included in a charter system contract or a contract executed pursuant to Article 4 of Chapter 2 of this title, the authority of the OSD shall supersede any such charter or contract with respect to the qualifying school and the State Board of Education and affected local board of education shall take all necessary steps to modify or cancel any such charter or contract with respect to the qualifying school to effectuate this. (Code 1981, § 20-14-103, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-104. (For effective date, see note.) Annual school rating.

The office shall annually, for purposes of this article, determine a rating of A, B, C, D, or F for each public elementary and secondary school in this state based on student achievement, achievement gap closure, and student growth. Such ratings shall be based on the state accountability system approved by the State Board of Education. (Code 1981, § 20-14-104, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-105. (For effective date, see note.) Intervention models; community feedback; financing issues; student support and opportunities; principals.

(a) An opportunity school may be subject to any of the following intervention models, as determined by the OSD Superintendent:

(1) Direct management of the opportunity school by the OSD;

(2) Shared governance of the opportunity school by the OSD and the local board of education pursuant to a contract in which the local board of education operates the school and the OSD Superintendent has the authority to direct changes to be made at the school;

(3) Reconstitution of the school as an OSD charter school in which the OSD works in collaboration with the State Charter Schools Commission to build capacity of petitioning governing boards and charter school applications to establish a charter that will be approved by the State Charter Schools Commission; or

(4) Closure of an opportunity school which is not enrolled at full capacity and reassigning the students to a nonqualifying school within the local school system. School closure shall be the intervention of last resort.

(b) The OSD Superintendent shall establish and implement a process for gaining community feedback and input to inform his or her decision regarding the most appropriate intervention model for a particular school.

(c)(1) For opportunity schools under the intervention models in paragraphs (2) and (3) of subsection (a) of this Code section, the school principal or OSD charter school governing board shall be authorized to make decisions about school finance, human capital, and curriculum and instruction for the opportunity school; provided, however, that the OSD Superintendent may direct school principals to make certain decisions under the intervention model in paragraph (2) of subsection (a) of this Code section. For such schools, the OSD Superintendent and staff shall provide appropriate training and support to develop effective leadership in such areas.

(2) For opportunity schools under the intervention model in paragraph (1) of subsection (a) of this Code section, the OSD shall be authorized to have a direct role in making decisions about school finance, human capital, and curriculum and instruction for the opportunity school while developing the leadership capacity in such schools.

(3) For opportunity schools under the intervention models in paragraphs (1) and (2) of subsection (a) of this Code section, the

existing local school councils may remain in place or may be reconstituted under the guidance of the opportunity school principal so long as they still meet the requirements in Code Section 20-2-86 regarding the composition of the council. The school council shall serve as an advisory board for the principal.

(4) For opportunity schools under the intervention model in paragraph (3) of subsection (a) of this Code section, parents and advisory board members shall be eligible for consideration to fill specific roles on the governing board.

(d) All opportunity schools shall remain open to enrollment in the same manner with the same attendance zone as prior to becoming an opportunity school.

(e) An opportunity school may purchase services from the OSD, the local board of education, or an education service provider for routine student support and operational services for an opportunity school. The opportunity school shall solicit and preferentially consider qualified local contractors and service providers. The local board of education shall be required to cooperate fully with the opportunity school, whether under the control of the OSD or the State Charter Schools Commission, to make available at a reasonable cost all appropriate services requested. Such services may include, but are not limited to, transportation, cafeteria services, custodial services, alternative education, broadband, utilities, special education services, test administration services, and student information services. The local board of education shall be required to make immediately available to the opportunity school, at no cost, the student records for all students of that school.

(f) Opportunity schools shall develop and provide for positive behavioral interventions and supports, which means an evidence based data-driven framework to reduce the disciplinary incidents, increase a school's sense of safety, and support improved academic outcomes through a multitiered approach, using disciplinary data and principles of behavior analysis to develop school-wide, targeted, and individualized interventions and supports. Additionally, opportunity schools shall develop and provide for response to intervention, which means a framework of identifying and addressing the academic and behavioral needs of students through a tiered system.

(g) Opportunity schools shall develop and provide for integrated student supports that target academic and nonacademic barriers to achievement and, where appropriate, shall form partnerships to implement proven or innovative strategies.

(h) The OSD Superintendent or OSD charter school governing board shall select and hire the school principal for an opportunity school.

Within the limits of the school budget, the school principal shall select staff members in accordance with guidance from the OSD or OSD charter school governing board. Before finalizing staffing recommendations, the principal, the OSD Superintendent, or the OSD charter school governing board shall interview all existing staff members at the qualifying school and review student growth and performance data for those staff members for whom it is available. The OSD or OSD charter school governing board shall have the authority to decide whether any leader, teacher, or staff member previously assigned to a qualifying school selected to become an opportunity school shall continue as an employee of the opportunity school. Any such employees retained shall become employees of the OSD or OSD charter school governing board, on the principal's recommendation, and be under their control. Any teacher subject to Code Section 20-2-942 who is not given the option to continue as an employee for the opportunity school shall remain an employee of the local board of education. The local board of education may determine whether or not to continue the employment of any teacher who is not given the option to continue as an employee for the opportunity school, subject to Code Section 20-2-942. Local boards of education may use the authority contained in Code Section 20-2-943 to reassign staff and in Code Section 20-2-948 to implement their reduction in force policy. (Code 1981, § 20-14-105, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-106. (For effective date, see note.) Establishment of school goals; governing board membership and qualifications.

(a) For opportunity schools other than OSD charter schools, the OSD Superintendent shall set clear goals, empower and equip teachers and school leaders to meet the goals, and hold such teachers and school leaders accountable to meet the goals. The OSD Superintendent shall approve appropriate waivers for the qualifying school pursuant to subsection (d) of Code Section 20-14-103.

(b) For opportunity schools that become OSD charter schools, the State Charter Schools Commission shall set such goals and hold such teachers and school leaders accountable.

(c) The OSD Superintendent shall select, approve, or remove the school principal for opportunity schools and the governing board members for opportunity schools which become OSD charter schools.

(d)(1) Each OSD charter school shall have a governing board that is involved in school-level governance of the school. The governing

board shall be organized and operated as a nonprofit corporation under the laws of this state. The OSD charter school shall be a public, nonsectarian, nonreligious, nonprofit school that is not home based, provided that a school's nonprofit status shall not prevent the school from contracting for the services of a for profit entity.

(2) The members of the governing board for an OSD charter school shall come from the community and shall meet the following qualifications:

- (A) Must be a United States citizen;
- (B) Must be a resident of Georgia; and
- (C) Must not be an employee of the opportunity school.

(3) The OSD Superintendent, after soliciting and considering recommendations from the local legislative delegation, shall make the final selection of governing board members for OSD charter schools and shall ensure that the boards possess the financial, legal, and educational expertise needed to successfully run a school.

(e) The OSD Superintendent shall enter into an agreement with the school principal, the OSD charter school governing board, or the local board of education regarding specific goals for each opportunity school related to higher academic outcomes for students, quality careers for graduates, safe and positive learning environments for children, parent and community engagement, and the efficient and effective use of taxpayer dollars. (Code 1981, § 20-14-106, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-107. (For effective date, see note.) Responsibilities of OSD Superintendent; modifications to selected schools.

(a) In an effort to ensure high quality charter petitions for opportunity schools seeking OSD charter school status, the OSD Superintendent shall:

(1) Solicit, screen, and select or approve OSD charter school governing board members; and

(2) Assist the OSD charter school governing board members in charter petition development and review; provided, however, that such assistance shall conclude upon approval by the State Charter Schools Commission of the opportunity school as an OSD charter school.

(b) In an effort to provide opportunity schools seeking OSD charter school status with necessary support, the State Charter Schools Com-

mission shall solicit, screen, and select education service providers, including independent consultants, education management organizations, charter management organizations, and other support organizations, that can partner with the OSD charter school governing boards to support or operate such OSD charter schools.

(c) The State Charter Schools Commission shall establish a separate application cycle for opportunity schools seeking OSD charter school status. Such application cycle shall allow commission staff and commission members to evaluate the needs of an opportunity school, match them with an education service provider, and work with both parties to ensure the execution of a viable curricular model and educational program.

(d) Upon renewing a state charter, an OSD charter school shall no longer be considered a part of the OSD but shall be subject to the terms of its charter and the provisions of Article 31A of Chapter 2 of this title. The local board of education shall be required to continue any and all facility use and service provision agreements previously in place with the OSD regarding any such OSD charter school as long as the OSD charter school continues to operate in that facility.

(e) If an opportunity school is not approved or renewed by the State Charter Schools Commission as an OSD charter school, the school shall remain under or return to the supervision of the OSD, and the OSD Superintendent shall reevaluate the school's performance and determine the appropriate intervention pursuant to subsection (a) of Code Section 20-14-105 for the school. If an initial charter petition by an opportunity school to become an OSD charter school is denied by the State Charter Schools Commission, the opportunity school may submit another charter petition in a subsequent cycle. If a renewal charter petition by an opportunity school to continue as an OSD charter school is denied by the State Charter Schools Commission at the end of its initial term, the governing board of the school may not elect to seek approval from the local board of education as a local charter school. (Code 1981, § 20-14-107, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-108. (For effective date, see note.) School facility management.

(a) Facilities of qualifying schools that are transferred to the supervision of the OSD as opportunity schools shall come under the control of the OSD. The OSD Superintendent may assign the facility for use by an OSD charter school governing board to operate the opportunity school. The OSD or the OSD charter school governing board shall be respon-

sible for paying the pro-rata bond indebtedness of the school. The contents of the facility, including but not limited to textbooks, technology, media resources, instructional equipment, and all other resources shall remain with the facility and be available for use by the opportunity school. In the event that the OSD Superintendent closes a qualifying school, the local board of education shall not use the facility to open a school with the same grade span or attendance zone that is substantially the same for three years.

(b) The OSD or OSD charter school governing board shall be responsible for the routine maintenance and repair of the facilities and property, such that they are maintained in the same manner prior to the school's transition to the OSD. The OSD or OSD charter school governing board shall be responsible for reasonable costs for all utilities at an opportunity school as provided in subsection (d) of Code Section 20-14-105.

(c) The local board of education shall continue to be responsible for extensive repairs, as determined by the State Properties Commission, to buildings or facilities considered capital expenses. Any fixtures, improvements, or tangible assets added to a school building or facility by the OSD while the school is an opportunity school shall remain with the school building or facility upon its return to the control of the local board of education pursuant to Code Section 20-14-109. (Code 1981, § 20-14-108, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-109. (For effective date, see note.) Supervision of schools; effect of failing schools.

(a) An opportunity school shall remain under the supervision of the OSD for a minimum of five consecutive years or, for an OSD charter school, for the term of the initial charter for such school; provided, however, that if an opportunity school earns, for three consecutive years, a rating above an F pursuant to Code Section 20-14-104, it shall be removed from the OSD. If an opportunity school that becomes an OSD charter school that subsequently earns a rating above an F for three consecutive years, it shall no longer be subject to the oversight of the OSD but shall remain under the authority of the State Charter Schools Commission and shall operate according to the terms of its charter.

(b) An opportunity school shall remain under the supervision of the OSD for no more than ten years. Renewal of a charter for an opportunity school shall result in the exit of the school from the OSD. For other opportunity schools, the OSD Superintendent shall engage the school,

the school community, and the school's local board of education in a negotiation to determine the best transition plan for the school to leave the supervision of the OSD.

(c) An opportunity school that becomes an OSD charter school shall work with the State Charter Schools Commission to renew and continue an effective charter or, if ineffective as a charter school, shall return to the governance of the OSD. If a successful OSD charter school does not wish to remain under the authorization of the State Charter Schools Commission for a subsequent charter term after demonstrating effective performance, the State Charter Schools Commission and the OSD shall coordinate the development of a transition plan back to the governance of the local board of education, which may include, but is not limited to, approval by the local board of education as a local charter school. (Code 1981, § 20-14-109, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-110. (For effective date, see note.) Treatment as single local education agency; data reporting.

(a) The OSD shall be treated as a single local education agency; provided, however, that opportunity schools that are OSD charter schools shall be treated individually as single local education agencies in accordance with Code Section 20-2-2090. The State Charter Schools Commission shall annually provide an analysis of the performance of opportunity schools that are OSD charter schools. The commission shall work with the OSD Superintendent to determine additional assistance that may be needed to improve the performance of the school.

(b) The OSD shall be responsible for data reporting for all opportunity schools under the intervention model in paragraph (1) of subsection (a) of Code Section 20-14-105. The local board of education shall be responsible for data reporting for all opportunity schools under the intervention model in paragraph (2) of subsection (a) of Code Section 20-14-105. OSD charter schools shall be subject to data reporting in accordance with Code Section 20-2-2090. For all opportunity schools, the entity responsible for data reporting shall comply with the requirements of Code Section 20-2-740. (Code 1981, § 20-14-110, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-111. (For effective date, see note.) Funding for opportunity schools.

(a) Funding for an opportunity school shall be an amount equal to the sum of:

(1) QBE formula earnings, QBE grants, and federal grants earned by the school based on the school's enrollment, school profile, and student characteristics. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development and shall include the portion of funds that are calculated as the local five mill share pursuant to Code Section 20-2-164;

(2) A proportional share of state categorical grants, non-QBE state grants, state equalization grants, and all other state and federal grants; and

(3) An amount determined by OSD for each student enrolled in such school equal to a proportional share of local revenue from the local school system in which the school is located.

(b) The OSD may withhold up to 3 percent of the amount determined pursuant to subsection (a) of this Code section for each opportunity school for use in administering the duties required pursuant to this article; provided, however, that any amount withheld pursuant to this subsection shall be spent solely on expenses incurred by the OSD in performing the duties required by this article. For opportunity schools that are OSD charter schools, the 3 percent withheld shall be shared equally between the OSD and the State Charter Schools Commission for the initial term of the charter.

(c) The total allotment of state and federal funds to the local school system in which an opportunity school is located shall be calculated as otherwise provided in Article 6 of Chapter 2 of this title with an ensuing reduction equivalent to the amount of funds appropriated to the opportunity schools pursuant to paragraph (3) of subsection (a) of this Code section.

(d) Opportunity schools that become OSD charter schools and subsequently exit the OSD shall continue to be eligible for the same level of funding provided for in this Code section that they were eligible for while under the authority of the OSD.

(e) The General Assembly may appropriate additional funds to be allocated among the opportunity schools within the OSD at the discre-

tion of the OSD Superintendent for necessary and innovative purposes. In addition, private funds may be solicited and accepted by the OSD to support opportunity schools. (Code 1981, § 20-14-111, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor's notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-112. (For effective date, see note.) Regulation and waivers; improvement services and technical assistance.

(a) The State Board of Education is authorized to waive specifically identified State Board of Education rules, regulations, policies, and procedures, or provisions of Chapter 2 of this title for schools on warning, schools on probation, and qualifying schools not selected as opportunity schools. The goal for each waiver shall be improvement of student performance. Notwithstanding subsection (g) of Code Section 20-2-244, the State Board of Education is authorized to waive the provisions referenced in paragraphs (1) through (4) of subsection (g) of Code Section 20-2-244 for schools on warning, schools on probation, and qualifying schools not selected as opportunity schools and is also authorized to waive any other state board rule, regulation, policy, procedure, or provision of Chapter 2 of this title for such schools pursuant to Code Section 20-2-244. Any waivers granted pursuant to this subsection may be renewable annually based on student performance. The State Board of Education shall coordinate with the OSD Superintendent in determining appropriate waivers for a qualifying school that was not selected as an opportunity school to enable school improvement services and technical assistance by the department pursuant to subsection (b) of this Code section. The State Board of Education shall communicate to the OSD Superintendent any waivers granted to a school on warning or a school on probation. Any waivers granted pursuant to this subsection shall not preclude the school from being selected in subsequent years for inclusion in the OSD.

(b) The Department of Education shall provide school improvement services and technical assistance to schools on warning, schools on probation, and qualifying schools not selected for intervention by the OSD Superintendent pursuant to this article which may include, but is not limited to, appointing a Department of Education school improvement team to:

(1) Conduct a comprehensive on-site evaluation of the school to determine the cause for the school's low performance and lack of progress that includes presentations by the chairperson of the local board of education, the school principal, a parent member of the local school council, and other school personnel;

- (2) Recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, professional learning focused on student achievement for instructional and administrative staff, intervention for individual administrators or teachers, instructional strategies based on scientifically based research, waivers from state statutes or rules, adoption of policies and practices to ensure all groups of students meet the state’s proficiency level, extended instruction time for low-performing students, strategies for parental involvement, incorporation of a teacher mentoring program, smaller class size for low-performing students, or other actions the team considers appropriate;
- (3) Assist in the development of an intensive school improvement plan focused on student achievement; and
- (4) Monitor the progress of the school in implementing the intensive school improvement plan focused on student achievement. (Code 1981, § 20-14-112, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor’s notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

20-14-113. (For effective date, see note.) Applicability.

This article shall be applicable beginning with school year 2017-2018. (Code 1981, § 20-14-113, enacted by Ga. L. 2015, p. 92, § 1/SB 133.)

Editor’s notes. — For information as to the effective date of this Code section, see the delayed effective date note at the beginning of this article.

CHAPTER 15

GEORGIA MEDICAL CENTER AUTHORITY

Sec.
20-15-1 through 20-15-16 [Repealed].

20-15-1 through 20-15-16.

Reserved. Repealed by Ga. L. 2014, p. 175, § 1/HB 513, effective April 15, 2014.

Editor’s notes. — This chapter consisted of Code Sections 20-15-1 through 20-15-5, 20-15-5.1 through 20-15-5.7, 20-15-6 through 20-15-16, relating to the Georgia Medical Center Authority, and was based on Code 1981, §§ 20-15-1 through 20-15-16, enacted by Ga. L. 2000, p. 399, § 1; Ga. L. 2001, p. 4, § 20; Ga. L. 2004, p. 486, § 1; Ga. L. 2005, p. 694, § 29/HB 293; Ga. L. 2005, p. 1134, § 6/HB 298; Code 1981, §§ 20-15-5.1 through 20-15-5.7, enacted by Ga. L. 2006, p. 1060,

§ 4/HB 1083; Ga. L. 2006, p. 1060, §§ 5-7/HB 1083; Ga. L. 2007, p. 47, § 20/SB 103; Ga. L. 2009, p. 300, §§ 1, 2/HB 93.

Ga. L. 2014, p. 175, § 2/HB 513, not codified by the General Assembly, provides that as of April 15, 2014, the Georgia Medical Center Authority is abolished and shall cease to exist.

Ga. L. 2014, p. 175, § 3/HB 513, not codified by the General Assembly, provides that: “(a) Any funds held by the

Georgia Medical Center Authority as of the effective date of this Act shall be paid to the state treasury and become a part of the general funds of the state.

“(b) On the effective date of this Act, any outstanding contracts, licenses, and obligations of the Georgia Medical Center Authority shall be transferred to the Board of Regents of the University System of Georgia until the same are completed or extinguished.” This Act became effective April 15, 2014.

